

federal register

Wednesday
November 5, 1980

Highlights

Cumulative List of Public Laws—The third cumulative list of public laws for the second session of the 96th Congress is published in the **Reader Aids** section of this issue.

AN EXPLANATION ABOUT WEDNESDAY "REMINDERS"

Are there any upcoming meetings or hearings you should know about? Did you forget about that proposed rule you wanted to comment on? For items like these, plus information on new rules, recently signed public laws, and grants related documents, see the "reminders" in today's **Reader Aids** section.

73610-73623 Community Development Block Grants HUD/CPD clarifies policies used in action grant program and modifies rules to accommodate communities containing pockets of poverty; effective 11-5-80 (2 documents) (Part III of this issue)

73467 Excise Taxes Treasury/IRS amends temporary tax regulations relating to windfall profit tax on domestic crude oil; effective 2-29-80

73467 Estate Taxes Treasury/IRS provides temporary regulations for taxpayers who elected to treat their interest in certain jointly held property as a "qualified joint interest"

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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.

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- 73514 Grant Programs—Education** ED/Sec'y proposes regulations to implement the Minority Institutions Science Improvement Program which provides support to institutions of higher education to effect an increase of underrepresented ethnic minorities into scientific careers; comments by 12-5-80
- 73602 Pesticides** EPA issues preliminary notice of determination concluding rebuttable presumption against registration of pesticide products; comments by 12-5-80 (Part II of this issue)
- 73541 Housing** HUD/NVACP extends comment period on single family real estate settlement practices; comments by 11-17-80
- 73504 Securities** CFTC proposes to clarify requirements boards of trade must comply with for initial and continued designation as contract markets; comments by 2-1-81
- 73479 Veterans** VA issues regulations that allow for measurement of medical and dental internships and residencies on a less than full-time basis when determining educational assistance to be paid; effective 10-29-80
- 73509 Taxes** SEC publishes proposed rules regarding allocation of consolidated Federal income tax liability by registered holding companies and their subsidiaries; comments by 12-31-80
- 73473 Environmental Quality** DOD/Army clarifies policies, responsibilities, and procedures for conducting pest management programs on Army installations; effective 11-5-80
- 73567 Taxes** Treasury/IRS provides background information with respect to a study relating to automatic extension of certain election periods; comments by 3-31-81
- 73499 Energy** DOE/ERA extends comment period regarding cogeneration exemption; comments by 12-15-80
- 73572 Sunshine Act Meetings**

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Rules and Regulations

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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

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions and Delegations of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization of the Animal and Plant Health Inspection Service by adding five regional offices in the field organization of APHIS under the supervision of the Deputy Administrator, Veterinary Services. Regional supervision previously was provided through five regional directors located at 6505 Belcrest Road, Hyattsville, MD 20782.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-5335 or 301-436-6466).

SUPPLEMENTARY INFORMATION: At the time the statement of organization, functions, and delegations of authority for APHIS was first codified into 7 CFR 371, (45 FR 8564), regional offices were not established for Veterinary Services. Supervision of field activities was provided by five regional directors located in Hyattsville, MD. Now, regional offices have been established as set forth in this document.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553 it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule

effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management it is exempt from the provisions of Executive Order 12044 Improving Government Relations, and thus, does not require the preparation of a regulatory impact analysis. Accordingly, 7 CFR Part 371 is amended as follows:

1. Section 371.1 is amended by revising paragraph (c)(2), to read as follows:

§ 371.1 General statement.

* * * * *

(c) * * *

(2) Veterinary Services

Laboratories

National Veterinary Services
Laboratories, P.O. Box 884, Ames, IA
50010

Regions

North Central: 2490 W. 26th Avenue, Rm
236, Denver, CO 80211

Northern: Bldg. 12, GSA Depot, Scotia,
NY 12302

Southeastern: 700 Twigg St., Rm 821,
Tampa, FL 33602

South Central: Texas and Pacific Bldg.,
Suite 310, 221 W. Lancaster Avenue,
Ft. Worth, TX 76102

Western: 245 E. Liberty St., Rm 300,
Reno, NV 89501

* * * * *

Authority: 5 U.S.C. 301.

Issued at Washington, D.C., this 28th day of
October 1980.

Harry C. Mussman,

*Administrator, Animal and Plant Health
Inspection Service.*

[FR Doc. 80-34434 Filed 11-4-80; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Rules of Practice for Domestic Licensing Proceedings

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules of practice to conform the time permitted under 10 CFR 2.206(c) and 2.786(a) with its revised internal

operating procedures which provide that the Commissioners have ten (10) working days to review the decision of the appropriate Office Director or of the Appeal Board and the advice of the General Counsel.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mark E. Chopko, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 202/634-3224.

SUPPLEMENTARY INFORMATION: NRC regulations provide that the Commission may decide to review, on its own motion, a decision of the Appeal Board within thirty (30) days of the decision or after a petition for review is filed, whichever is later. 10 CFR 2.786(a), as amended 45 FR 45890 (July 8, 1980). In addition, § 2.206(c) provides that the Commission may decide to review a Director's decision within twenty (20) days of the decision. In both instances the time had been divided between review of the matter by the Office of the General Counsel in order to advise the Commissioners on a proposed course of action and consideration of the matter by the Commission. The Commission has recently adopted a revised set of internal operating procedures that now would provide ten (10) working days for Commissioner action. In order both to provide for adequate review in the Office of the General Counsel and to provide sufficient time for Commission consideration in conformance with the new operating procedures, the Commission has decided to amend its rules to add additional time for consideration of such decisions.

Section 2.786(a) will be amended to provide forty (40), instead of the existing thirty (30), days for Commission consideration of Appeal Board decisions on its own motion. This change does not affect the rest of § 2.786(a) including the recent amendment. 45 FR 45890. In addition, § 2.206(c)(1) will be amended to provide twenty-five (25), instead of the existing twenty (20), days for Commission consideration of a Director's decision.

Because this amendment relates solely to matters of agency procedure, notice of proposed rulemaking and public procedure thereon are not required by section 553 of Title 5 of the United States Code and shall be omitted from this proceeding. As rules applying only to internal agency procedure, these

final rules will be effective November 5, 1980.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 2, is published as a document subject to codification:

1. Section 2.206(c)(1) is revised to read as follows:

§ 2.206 Requests for action under this subpart.

(c)(1) Director's decisions under this section will be filed with the Office of the Secretary. Within twenty-five (25) days after the date of the Director's decision under this section that no proceeding will be instituted or other action taken in whole or in part, the Commission may on its own motion review that decision, in whole or in part, to determine if the Director has abused his discretion. This review power does not limit in any way either the Commission's supervisory power over delegated staff actions or the Commission's power to consult with the staff on a formal or informal basis regarding institution of proceedings under this section.

2. Section 2.786(a) is revised to read as follows:

§ 2.786 Review of decisions and actions of an Atomic Safety and Licensing Appeal Board.

(a) Within forty (40) days after the date of a decision or action by an Atomic Safety and Licensing Appeal Board under § 2.785, or within thirty (30) days after a petition for review of such decision or action has been filed under paragraph (b) of this section, the Commission may, in cases of exceptional legal or policy importance, review the decision or action on its own motion.

(Sec. 161p., Pub. L. No. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. No. 93-438, 88 Stat. 1243 (42 U.S.C. 5841))

Dated at Washington, DC, this 29th day of October 1980.

For the Commission.

Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 80-34293 Filed 11-4-80; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 80-656]

Technical Amendment Regarding NOW Accounts

October 23, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulation.

SUMMARY: Pursuant to titles III and IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, the Federal Home Loan Bank Board adopted on September 30, 1980 regulations authorizing Federal associations to issue negotiable order of withdrawal ("NOW") accounts. This resolution adopts a technical amendment to those regulations that conforms requirements for Federal and other FSLIC-insured institutions with regard to NOW account forms.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Michael D. Schley (202-377-6444), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: At present, only Federal associations in New England, New York and New Jersey are permitted to offer negotiable order of withdrawal ("NOW") accounts to depositors. Title III of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221; 94 Stat. 132 (1980)) extends this authority to Federal associations nationwide as of December 31, 1980. By Resolution No. 80-613 of September 30, 1980 (45 FR 66781, October 8, 1980), the Federal Home Loan Bank Board adopted final regulations that implement this NOW account authority.

As part of Resolution No. 80-613, the Board amended 12 CFR 545.2(b) so that Federal associations will not be required to issue passbooks or certificates as evidence of ownership of NOW accounts. The purpose underlying this amendment was to place Federal associations on an equal footing in this regard with other depository institutions issuing draft-type instrument accounts.

The amendment to § 545.2(b) inadvertently resulted in inequitable treatment of Federal and State associations with regard to prior approval of account forms. Section 545.2(b) requires that Federal associations issue certificate forms that are prescribed by the Board; the exemption of NOW accounts from these provisions abolished the only

requirement of prior approval of NOW account forms issued by Federal associations. However, the provisions of 12 CFR 563.1 requiring the Federal Savings and Loan Insurance Corporation's prior approval of account forms issued by insured State institutions remain in effect and are applicable to NOW accounts.

The Board has therefore resolved to amend § 563.1 to exempt forms for NOW accounts issued by insured State institutions from the requirement of prior approval by the Federal Savings and Loan Insurance Corporation. This will result in equal treatment of Federal and insured State institutions under the regulations, and will conform the Board's rule on NOW account form requirements to those of the Board of Governors of the Federal Reserve and the Federal Deposit Insurance Corporation.

While Federal and insured State institutions will not be required to submit NOW account forms for prior approval or adopt forms prescribed by the Board, it is expected that NOW account terms (such as interest rate, minimum balance requirements, and service fees) will be fully disclosed to depositors as a matter of prudent business practice. It is also noted that an institution offering electronic fund transfer services in conjunction with NOW accounts is subject to the disclosure requirements of Regulation E (12 CFR 205.7).

The Board finds that observance of the proposal procedure and notice period of 12 CFR 508.12 and 5 U.S.C. § 553 would be impracticable due to the December 31, 1980 effective date of NOW account authority and is unnecessary because the amendments are technical in nature. The amendment is therefore adopted as a final regulation, and will become effective on December 31, 1980, in conjunction with the nationwide NOW account authority of Resolution No. 80-613.

Accordingly, the Board hereby amends Part 563, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

PART 563—OPERATIONS

1. Revise the second sentence of § 563.1 to read:

§ 563.1 [Amended]

* * * "No insured institution (except a Federal savings and loan association) shall issue any form of checking or savings accounts, share, stock, membership or deposit certificates, passbooks, or other investment contract which has not been submitted to the

Corporation for approval; but this approval requirement shall not apply with regard to forms for NOW accounts.

(Sec. 303, Pub. L. No. 96-221; Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943-48 Comp., p. 1071))

By the Federal Home Loan Bank Board.

Robert D. Linder,
Acting Secretary.

[FR Doc. 80-34507 Filed 11-4-80; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 23

[T.D. 7731]

Temporary Estate Tax Regulations Under the Act of 1978; Procedure for Correction of an Incomplete Election To Treat an Interest in Certain Joint Tenancies as a Qualified Joint Interest

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations for taxpayers who elected to treat their interest in certain jointly held property as a "qualified joint interest" under section 2040(d) of the Internal Revenue Code of 1954 (Code) but failed to comply with the requirements of section 23.1 of the Temporary Estate Tax Regulations.

DATE: The regulations apply to elections for certain property held jointly on December 31, 1976.

FOR FURTHER INFORMATION CONTACT: Stephen J. Small 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, 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1980, section 23.1 of the Temporary Estate Tax Regulations was published in the *Federal Register* (45 FR 17983) concerning the procedure for the election to treat an interest in certain joint tenancies as a qualified joint interest for estate tax purposes. The election is available under sec. 2040 (d) of the Code.

Those regulations provided, generally, that the spouse who furnished more than one-half the initial consideration for the property must make the election by including the amount of the gift in a

timely filed gift tax return and must pay any tax due. The regulations provided a formula for computing the amount of the gift. Under sec. 6075 (b) of the Code, the due date for the gift tax return was April 15, 1980, unless the taxpayer received an extension under sec. 6081.

Sec. 23.1 (a) (3) of the regulations required that a statement of consent be attached to the gift tax return, signed by the donee spouse and indicating that the donee spouse consents to the election. It has come to the attention of the Treasury Department that in many cases prior to the issuance of the regulations, taxpayers attempted to make the election by timely filing a gift tax return but failed to include a statement of consent.

Provisions of the Regulations

This amendment to the regulations provides that in the case of a timely filed election that did not comply with sec. 23.1 of the Temporary Estate Tax Regulations under the Revenue Act of 1978, treatment of the interest as a qualified joint interest from the date of the original filing will be permitted only if a corrected gift tax return is filed that is in compliance with sec. 23.1. The regulations require that the corrected gift tax return must be filed by April 15, 1981.

Waiver of Certain Procedural Requirements of Treasury Directive

A determination has been made by Jerome Kurtz, Commissioner of Internal Revenue, that there is an immediate need for these regulations under section 2040 (d) to provide guidance to taxpayers. Compliance with the procedural requirements of paragraphs 8 through 14 of the Treasury directive relating to improved regulations (43 FR 52120) would therefore be impractical and, accordingly, the requirements have been waived.

Drafting Information

The principal author of this regulation was Stephen J. Small 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 regulation, both in matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 23 is amended as follows:

1. Section 23.1 is amended as follows:

§ 23.1 [Amended]

1. Paragraph (f) is redesignated as paragraph (g).

2. A new paragraph (f) is inserted to read as set forth below.

§ 23.1 Election and eligibility to treat interests in property held jointly on December 31, 1976, as qualified joint interests.

(f) *Incomplete election*—(1) *Corrected return required.* Where an otherwise valid election, on a timely filed gift tax return for any calendar quarter ending in 1977, 1978, or 1979, failed to satisfy the procedural requirements of this section, the election will be considered effective from the date of the original filing upon the filing of a corrected gift tax return, with the statement of consent attached, at the Internal Revenue Service Office where the original return was filed.

(2) *Due Date.* The corrected gift tax return must be filed by April 15, 1981. The executor or administrator of a spouse who dies (or the guardian or committee of a spouse who becomes legally incompetent) before the corrected gift tax return is filed may file the return or may sign the consent as the case may be.

This Treasury decision adds temporary regulations to enable taxpayers to comply with the new law on the election to treat an interest in property as a qualified joint interest. Because this regulation is necessary to provide immediate guidance to taxpayers, it is impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of this section.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805))

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: October 17, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-34520 Filed 11-4-80; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 150

[T.D. 7732]

Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Tax Deposits and Refunds Based on the Net Income Limitation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of temporary regulations.

SUMMARY: This document amends temporary excise tax regulations relating to the windfall profit tax on domestic crude oil imposed by title I of the Crude Oil Windfall Profit Tax Act of 1980. The new temporary regulations provide rules to be followed by producers of domestic crude oil. In addition, the text contained in the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These temporary regulations are effective with respect to oil removed after February 29, 1980.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

On April 4, 1980, the **Federal Register** published temporary regulations (45 FR 23384) under sections 4986, 4987, 4988, 4989, 4991, 4992, 4993, 4994, 4995, 4996, 4997, 6050C, 6076, and 6402 of the Internal Revenue Code of 1954. The temporary regulations were required to implement various sections of the Crude Oil Windfall Profit Tax Act of 1980. Certain amendments to the temporary regulations were published on April 25, 1980 (45 FR 27929). This document contains amendments to §§ 150.4995-3, 150.4997-1, and 150.6402-1 of those temporary regulations (relating to windfall profit tax deposits, returns, and refunds).

Explanation of Provisions

Numerous commentators on the proposed windfall profit tax regulations published on April 4, 1980 expressed concern over the operation of the tax deposit and refund rules in situations involving the application of the net income limitation on windfall profit provided in section 4988(b). Several commentators suggested that in order to avoid overpayments of tax, the deposit rules should be amended to clarify that producers may take the net income limitation into account in depositing their own tax under § 150.4995-3 (a) or (f) when the first purchaser is not required to withhold. This suggestion has been adopted, and § 150.4995-3 (a) and (f) is amended to specifically provide that the net income limitation

may be taken into account by producers depositing their own tax liability. The amendment is effective with respect to oil removed after February 29, 1980. Therefore, producers may reduce future deposits if more than the tax imposed by section 4986, computed with regard to the net income limitation, has been deposited for past periods. However, refund claims may not be filed until after the end of the producer's taxable year (for Federal income tax purposes).

Most of the commentators recognized that section 4995(a)(2)(B) precludes the first purchaser from taking the net income limitation into account in determining the amount to be withheld from producers. However, it was requested that the regulations be amended to expedite refunds to producers from whom tax has been withheld due to the net income limitation.

These regulations amend § 150.6402-1 to permit refund claims to be filed as soon as the statute permits and the amount of the overpayment can be determined. Producers whose taxable year (for Federal income tax purposes) is the calendar year may file a claim for credit or refund any time after the last day of February following the year of removal (the date that section 4995(a)(4)(B) deems the tax to have been paid). Producers whose taxable year is not the calendar year may file two claims for credit or refund each year. First, after the last day of February following the calendar year of removal, the producer may file a claim for credit or refund of overpayments attributable to the portion of the calendar year that is within the taxable year that ended during that calendar year. Second, after the end of the following taxable year, the producer may file a claim for credit or refund of overpayments attributable to the remainder of the calendar year.

Waiver of Procedural Requirements of Treasury Directive

The expeditious adoption of the provisions contained in this document is necessary because of the need for immediate guidance to taxpayers liable for the windfall profit tax on domestic crude oil. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of these regulations is David B. Cubeta 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.

Adoption of amendments to the regulations

Accordingly, part 150, Temporary Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980, is amended as follows:

Paragraph 1. Section 150.4995-3 is amended by revising so much of paragraph (a)(1) as precedes subdivision (i), by revising so much of paragraph (f)(1) as precedes subdivision (i), and by redesignating paragraphs (g) and (h) as (h) and (i) and inserting new paragraph (g) immediately after paragraph (f). These revised, redesignated, and added provisions read as follows:

§ 150.4995-3 Depository requirements.

(a) *Deposits by integrated oil companies other than independent refiners—*(1) *In general.* Every integrated oil company (as defined in § 150.4996-1(g)) other than an independent refiner (as defined in § 150.4996-1(h)) that is either liable as a producer for the tax imposed by section 4986 (unless such tax is required by § 150.4995-1 to be deducted and withheld by the purchaser) or is required as a purchaser to deduct and withhold tax pursuant to § 150.4995-1 shall make deposits with respect to semimonthly periods (as defined in subparagraph (3)(i) of this paragraph). The amount to be deposited for each semimonthly period is the amount of tax imposed by section 4986 (computed with regard to the net income limitation provided in section 4988(b), if applicable) that is not required to be withheld under § 150.4995-1 on oil removed from the premises during that semimonthly period for which the company is liable as a producer, plus the amount required to be withheld by the company as a purchaser pursuant to § 150.4995-1 from payments that have been or will be made for oil removed from the premises during that semimonthly period. The deposits shall be made on or before the depository date (as defined in subparagraph (3)(ii) of this paragraph) for the semimonthly period in which the oil is removed. These depository requirements will be considered to have been met for a semimonthly period with respect to estimated deposits, including deposits based upon the producer's estimate of the effect of the net income limitation provided in section 4988(b), only if—

* * * * *

(f) *Deposits by producers of tax due on oil not subject to withholding*—(1) *In general.* Except as provided in paragraph (a) (relating to certain integrated oil companies), every producer shall deposit for each calendar month the tax imposed by section 4986 (computed with regard to the net income limitation provided in section 4988(b), if applicable) on the removal in that month of oil that is not subject to withholding under § 150.4995-1. The deposits shall be made not later than 45 days after the close of the month in which the oil was removed (or deemed removed under section 4988(c)(4)) from the premises. These deposit requirements will be considered to have been met for a month with respect to estimated deposits, including deposits based upon the producer's estimate of the effect of the net income limitation provided in section 4988(b), only if—

(g) *Special rules applicable if the net income limitation is taken into account in depositing tax*—(1) *Reporting requirements.* For the requirement that the producer file quarterly and annual statements if windfall profit tax deposits have been based on an application of the net income limitation provided in section 4988(b), see § 150.4997-1.

(2) *Treatment of deposits by a producer in excess of liability due to the net income limitation*—(i) *In general.* Under § 150.6402-1 a producer who deposits for a taxable period an amount that exceeds the tax imposed by section 4986 but does not exceed the tax imposed by section 4986 computed without regard to the net income limitation provided by section 4988(b) may not claim a credit or refund of the excess until the end of the producer's taxable year (for Federal income tax purposes) with respect to which the limitation is computed. However, the excess (if any) of a producer's deposits for a semimonthly period (calendar month in the case of producers depositing under paragraph (f) of this section) over the tax imposed by section 4986 (computed with regard to the net income limitation) for that period (or month) shall be applied in order of time to each of the producer's succeeding semimonthly periods (or months), to the extent that the amount by which the taxes for that period (or month) exceed the deposit for such subsequent period (or month), until such excess is exhausted. The preceding sentence shall not apply to any amount for which the producer files a claim for credit or refund pursuant to § 150.6402-1. Furthermore, no amount shall be applied to a deposit for a subsequent

semimonthly period (or month) that occurs in a taxable period beginning in a different taxable year (for Federal income tax purposes).

(ii) *Examples.* The rules of this paragraph and their relationship to the rules of § 150.6402-1 may be illustrated by the following examples:

Example (1). A, whose taxable year (for Federal income tax purposes) ends September 30, is the producer of oil from property X. For each taxable period (calendar quarter) within his taxable year ending September 30, 1981, A's windfall profit tax liability, determined without taking the net income limitation into account, is \$1,000. The purchaser of A's oil is not required to withhold any windfall profit tax, and for the last taxable period of 1980 A has deposited \$1,000. At the beginning of the first taxable period of 1981, A determines that the net income limitation will reduce the windfall profit tax with respect to the oil removed from property X during the taxable year ending September 30, 1981, by approximately 10 percent. Therefore, A concludes that the tax paid for the preceding taxable period (calendar quarter) exceeds his liability for tax for that period, although the exact amount of the excess cannot be determined until the taxable year ends. Under § 150.6402-1, A may not claim a refund for the amount of any such excess until the taxable year ends on September 30, 1981. However, paragraphs (a) and (f) of § 150.4995-3 do not require deposit of more than the tax imposed by section 4986. Therefore, A may estimate the effect of the net income limitation in determining the amount of windfall profit tax to be deposited for each taxable period. Furthermore, the amount by which the tax deposited by A for a preceding deposit period exceeds the actual liability for that period is treated as deposited for the next period. Accordingly, A deposits a total of \$800 for the first taxable periods of 1981 and \$900 for each of the next two taxable periods. Thus, at the end of the four taxable periods ending within A's taxable year, A has made the following deposits:

	Oct.-Dec. 1980	Jan.-Mar. 1981	Apr.-June 1981	July-Sept. 1981
\$1,000.....		\$800	\$900	\$900

After September 30, 1981, A computes his net income limitation for property X and determines that his actual tax liability was \$850 for each taxable period. A has satisfied the deposit

requirements and is entitled to file a claim for credit or refund of \$200.

Example (2). Assume the same facts as in example (1), except that A overestimates the effect of the net income limitation and deposits a total of \$600 for the first taxable period of 1981 and \$800 for each of the next two taxable periods. After September 30, 1981, A's deposits are as follows:

	Oct.-Dec. 1980	Jan.-Mar. 1981	Apr.-June 1981	July-Sept. 1981
\$1,000.....		\$600	\$800	\$800

\$150 of the deposits for October, November, and December 1980 is treated as carried over to and deposited in the next taxable period, bringing the total deposited required for Jan-Mar 1981 to \$700 (the amount equal to the \$850 actual liability less \$150 carried from the preceding period). However, due to the overestimation of the effect of the net income limitation, A has not deposited the total liability for that period or the next two taxable periods. Therefore, A is liable for \$200 in undeposited tax (the amount equal to \$3,400 total liability less \$3,200 total deposits) plus interest and penalties (unless A's error was due to reasonable cause).

(h) *Government depositories.* * * *

(i) *Depository forms.* * * *

Par. 2. Section 150.4997-1 is amended by revising the portion of paragraph (a) that follows subparagraph (2) to read as follows:

§ 150.4997-1 Returns and recordkeeping.

(a) *Returns.* * * *

Every producer taking the net income limitation provided by section 4988(b) into account in making windfall profit tax deposits shall file quarterly and annual statements in accordance with forms and instructions provided for the purpose. See § 150.6076-1 for the rules relating to the time for filing the returns required by this section.

Par. 3. Section 150.6402-1 is amended by revising paragraphs (b) and (c) and by adding new paragraphs (e) and (f) immediately after paragraph (d). These added and revised paragraphs read as follows:

§ 150.6402-1 Credit or refund of overpayment of windfall profit tax.

(b) *Overpayments not attributable to amounts deducted and withheld*—(1) *In general.* If, for any taxable period, a producer has paid more than the amount

of tax imposed by section 4986 (computed without regard to the net income limitation on windfall profit provided in section 4988(b)) that is attributable solely to tax paid on crude oil not subject to withholding, the producer may file a claim for refund of that overpayment on or after the date for filing the return of such tax for such taxable period under section 6076 or may claim credit for such overpayment against any liability for a tax imposed by Chapter 1 or 45 in accordance with the forms and instructions provided for that purpose.

(2) *Net income limitation.* Except as provided in paragraph (b)(1), if, for any taxable period, a producer has paid more than the amount of tax imposed by section 4986 (computed with regard to the net income limitation provided in section 4988(b)) that is attributable solely to tax paid on crude oil not subject to withholding, the producer may file a claim for credit or refund of that overpayment only after the end of the producer's taxable year (for Federal income tax purposes) with respect to which the limitation is computed. At that time, the producer may claim a credit or refund of the overpayment as provided in paragraph (b)(1) of this section.

(c) *Overpayments attributable to amounts deducted and withheld—(1) In general.* Under section 4995(a)(4), the producer of oil is treated as having paid any amount withheld on the last day of the first February after the calendar year in which the oil was removed from the premises. Therefore, if the sum of the producer's liability for the tax imposed by section 4986 (computed without regard to the net income limitation provided in section 4988(b)) on oil subject to withholding under § 150.4995-1 for all taxable periods of a calendar year is less than the amount deducted and withheld from the producer under § 150.4995-1 with respect to oil removed during the calendar year, an overpayment of tax exists after such last day of February. The producer may file a claim for refund of the overpayment or may claim credit for the overpayment against any liability for a tax imposed by chapter 1 or 45 in accordance with the forms and instructions provided for that purpose. The producer shall attach to the claim a copy of all Forms 6248 furnished to the producer pursuant to § 150.4997-2.

(2) *Net income limitation.* Except as provided in paragraph (c)(1), if the sum of the producer's liability for the tax imposed by section 4986 (computed with regard to the net income limitation provided in section 4988(b)) on oil

subject to withholding under § 150.4995-1 for any taxable period is less than the sum of the amounts deducted and withheld from the producer under § 150.4995-1 with respect to oil removed in that taxable period, the excess may be claimed as a credit or refund only after the later of—

(A) The last day of the first February after the end of the taxable period, or

(B) The last day of the producer's taxable year (for Federal income tax purposes) with respect to which the limitation is computed.

Thereafter, the producer may file a claim for credit or refund of the overpayment as provided in paragraph (c)(1) of this section.

* * * * *

(e) *Examples.* The rules of this section may be illustrated by the following examples:

Example (1). Under § 150.4995-1, the purchaser of oil from producer A is not required to deduct and withhold any tax from payments made to A. Consequently, A deposited a total of \$1,100 for a certain taxable period. After the end of the taxable period, it is determined that the tax imposed by section 4986, computed without regard to the net income limitation, is \$1,000. A estimates that, due to the net income limitation, the actual liability is only \$900. Under paragraph (b)(1) of this section, A may file a claim for credit or refund of \$100 (the amount by which the \$1,100 deposit exceeds the \$1,000 tax imposed by section 4986, computed without regard to the net income limitation). Under paragraph (b)(2) of this section, A may claim credit or refund of any overpayment due to the application of the net income limitation only after A's taxable year (for Federal income tax purposes) has ended. However, see § 150.4995-3(g)(2) for rules relating to estimated tax deposits.

Example (2). Producer B's taxable year for income tax purposes is the calendar year. Due to the application of the net income limitation, the amount of windfall profit tax withheld from B exceeds B's liability for each of the four taxable periods of the calendar year. B may file a claim for credit or refund of the overwithheld tax after the last day of February following the end of the calendar year.

Example (3). Producer C's taxable year for income tax purposes ends on June 30. Due to the application of the net income limitation, C's windfall profit tax has been overwithheld for each of the four taxable periods within C's taxable year ending June 30, 1981. C may claim credit or refund after June 30, 1981, for the overpayment attributable to oil

removed during the last two taxable periods of calendar year 1980 (July-September and October-December 1980), because by that time C has been deemed, under section 4995(a)(4), to have paid the tax with respect to those taxable periods, and the taxable year in which the oil was removed has ended. However, C must wait until after February 28, 1982, to claim credit or refund for the overpayment attributable to oil removed during the first two taxable periods of calendar year 1981 (January-March and April-June 1981).

Example (4). Assume the same facts as in example (3), except that the purchaser of C's oil made an error and overwithheld tax during the last taxable period of calendar year 1980. The error remained unadjusted when the purchaser furnished C the annual information statement under § 150.4997-2. After February 28, 1981, C may file a claim for credit or refund of the amount overwithheld due to the withholding error. However, C may not claim a credit or refund for the overpayment due to the application of the net income limitation until the dates specified in example (3).

Example (5). Assume the same facts as in example (3), except that C's taxable year ends on August 31, and the overpayment due to the net income limitation relates to C's taxable year ending August 31, 1981. C may claim a credit or refund after August 31, 1981, for the overpayment attributable to oil removed during the last two taxable periods of calendar year 1980. After February 28, 1982, C may claim credit or refund for the overpayment attributable to oil removed during the first three taxable periods of calendar year 1981. However, that claim may only reflect overpayments due to the application of the net income limitation for oil removed through August 1981 because the last month of the third taxable period of 1981 (September 1981) is in C's next income tax year.

(f) *Cross-reference.* For examples illustrating the interrelationship of § 150.4995-3 (relating to depository requirements) and this section, see § 150.4995-3(g)(2)(ii).

There is need for the immediate guidance provided by the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 4997 and 7805 of title 26 of the United States

Code (94 Stat. 249 and 68A Stat. 917; 26 U.S.C. 4997 and 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: October 31, 1980.

Robert Carswell,
Deputy Secretary of the Treasury.

[FR Doc. 80-34427 Filed 10-31-81; 11:59 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 518

[AR 340-17]

Release of Information and Records from Army Files

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending its regulations on initial authority to release certain information and is adding three new regulations to 32 CFR Part 518 to ensure that release of information under the Freedom of Information Act (FOIA) is consistent with the Act and the need to maintain operations security (OPSEC). These additions and amendments outline procedures for obtaining classification evaluation under Army Regulation 380-5, Information Security Program, when sensitive documents are requested under the FOIA and require triannual reporting of the OPSEC implication of FOIA requests. In addition, these amendments and additions expand the number of Initial Denial Authorities (IDA) and provide for the designation of FOIA/OPSEC advisers to assist FOIA officials regarding the OPSEC aspects of FOIA activities.

EFFECTIVE DATE: October 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. R. S. Christian, Privacy Branch, Records Management Division, Administrative Management Directorate, the Adjutant General's Office, Washington, DC 20310, Telephone (202) 693-0973.

Dated: October 29, 1980.

Guy B. Oldaker,
Chief, Records Management Division, The Adjutant General's Office.

Accordingly, 32 CFR Part 518 is amended by revising § 518.9(b) to read as follows:

§ 518.9 Initial Denial Authorities (IDA).

(b) *Assigned areas of responsibility:*
The IDA are responsible for acting on

requests for records within their areas of functional specialization and responsibility. This includes records created or otherwise maintained within the IDA's area of functional responsibility as indicated in (1) through (20), below, as well as records retired by, or referred to the IDA's headquarters or office. It also includes the records of predecessor organizations. IDA will act on requests sent directly to them as well as on referrals from officials under section 518.8 which deal with their areas of specialization or responsibility, as outlined in Army regulations in the 10 series. If a request for records falls within the area of responsibility of more than one IDA, the IDA to whom the request was originally addressed will normally be responsible for acting on it, unless otherwise agreed after consultation between the affected IDA. The IDA are fully responsible for completing all necessary coordinating actions at the initial denial level. IDA may delegate their authority, in whole or in part, to an office chief or subordinate commander, consistent with efficient administration of the Freedom of Information Act program. However, if a delegate denies a Freedom of Information Act request, he/she will make it clear that he/she is acting on behalf of the IDA. IDA will coordinate all matters which have public affairs aspects with the Chief of Public Affairs, or with the appropriate Public Affairs Officer in Accordance with AR 10-5 and AR 360-5. In cases in which the information requested is related to actual or potential litigation against the United States, its release will be coordinated with The Judge Advocate General (Litigation Division, HQDA (DAJA-LT), AUTOVON 22-51644 or Area Code 202/695-1644; see § 518.13). The following members of Headquarters Departments and Army commands are assigned IDA responsibility:

(1) The Administrative Assistant, Office of the Secretary of the Army is authorized to act for the Secretary of the Army on all requests for records relating to administrative matters at the Secretariat level as well as those requests requiring the personal attention of the Secretary of the Army.

(2) The Auditor General is authorized to act on requests for records relating to audits and internal reviews.

(3) The Deputy Chief of Staff for Operations and Plans is authorized to act on requests for records relating to strategy formulation, force development, individual and unit training policy, strategic and tactical command and control systems, nuclear and chemical

matters, and employment of Army forces.

(4) The Deputy Chief of Staff for Personnel is authorized to act on requests for case summaries, letters of instruction to boards, civilian personnel records, behavioral science records, safety records, and military police reports.

(5) The Deputy Chief of Staff for Logistics is authorized to act on requests for records relating to Army logistical requirements, determinations, and policy concerning materiel maintenance and utilization, equipment standards, and logistical readiness.

(6) The Comptroller of the Army is authorized to act on requests for finance and accounting records.

(7) The Assistant Chief of Staff for Intelligence is authorized to act on requests for foreign scientific and technological information, intelligence training, mapping and geodesy, and ground surveillance records.

(8) The Assistant Chief of Staff for Automation and Communications is authorized to act on requests for records relating to Army policy for automation and communications.

(9) The Adjutant General is authorized to act on requests for personnel and medical records of retired, separated, and reserve component military personnel; records relating to Army administrative programs other than those pertaining to the Secretariat or those requiring the personal attention of the Secretary of the Army; records relating to casualty, memorialization, and retired activities; records relating to recreation, bands, club management, Army Community Service, Army Emergency Relief, general education, voting, and identification cards; records relating to naturalization, citizenship, consumer protection, survivor benefits, and commercial solicitation policies; and records dealing with Army relationships with social security, veterans' affairs, United Service Organization, United States Soldiers' and Airmen's Home, American Red Cross, and Armed Forces Exchange Service.

(10) The Chief of Engineers is authorized to act on requests for records involving civil works, military construction matters, engineer procurement and ecology matters, and the records of United States Army Engineer divisions, districts, laboratories, and field operating agencies.

(11) The Surgeon General is authorized to act on requests for medical research and development records, and the medical records of active duty military personnel,

dependents, and persons given physical examinations or treatment at Army medical facilities.

(12) The Chief of Chaplains is authorized to act on requests for records involving ecclesiastical rites performed by Army chaplains, and privileged communications relating to the clergy.

(13) The Judge Advocate General (TJAG) is authorized to act on requests for records relating to claims, courts-martial, legal services, and similar legal-type records. TJAG is also authorized to act on requests for records described elsewhere in this regulation, if those records relate to litigation in which the United States has an interest. In addition, TJAG is authorized to act on request for records that are not within the functional areas of responsibility of any other IDA.

(14) The Chief, National Guard Bureau is authorized to act on requests for all Army National Guard records (unless such records clearly fall within the scope of another IDA's responsibility) including National Guard organization and training files; National Guard plans, operations, and readiness files; National Guard policy files; National Guard historical files; and files relating to National Guard military support and civil disturbance activities.

(15) The Chief, Army Reserve is authorized to act on requests for all United States Army Reserve (USAR) records (unless such records clearly fall within the scope of another IDA's responsibility) including records relating to USAR plans, policies, and operations; changes in the organizational status of USAR units; mobilization and demobilization policies; USAR training policies and programs; and policies relating to active duty tours and the Mobilization Designation Program.

(16) The Inspector General is authorized to act on request for all Inspector General Records in accordance with AR 20.1.

(17) The Commander, United States Army Materiel Development and Readiness Command (DARCOM) is authorized to act on requests for the records of DARCOM headquarters and its subordinate commands, units, and activities which relate to procurement, logistics, research and development, and supply and maintenance operations.

(18) The Commander, United States Army Criminal Investigation Command (USACIDC) is authorized to act on requests for criminal investigative records of USACIDC headquarters and its subordinate activities including criminal investigation records, investigation-in-progress records, and military police reports which result in criminal investigation reports.

(19) The Commander, United States Military Personnel Center is authorized to act on requests for military personnel files relating to active duty military personnel matters, and other military personnel administration records (other than those of reserve and retired personnel).

(20) The Deputy Commander, Intelligence, United States Army Intelligence and Security Command is authorized to act on requests for intelligence investigation and security records.

Accordingly, 32 CFR Part 518 is amended by adding §§ 518.20 through 518.23 to read as follows:

§ 518.20 Operations security (OPSEC).

The release of information from Department of the Army records must be accomplished in accordance with the Freedom of Information Act (FOIA) and in a manner that protects military operations and activities from hostile intelligence services and their agents. See AR 530-1, relating to OPSEC. Section 518.21 outlines the steps to be taken by FOIA personnel and Initial Denial Authorities (IDA) when it appears that a FOIA request involves OPSEC considerations.

§ 518.21 Operations security policy.

Release of information under the Freedom of Information Act (FOIA) can have an adverse impact on OPSEC. OPSEC policies and procedures as set forth in AR 530-1 must be implemented in a manner that is consistent with the provisions of FOIA as implemented by this regulation. The following will help ensure that OPSEC matters are adequately considered:

(a) Care must be taken to protect documents or portions of documents that have been properly classified in the interest of national security. Classified documents may be released in response to a FOIA request only in accordance with the declassification and downgrading provisions of Chapter III of AR 380-5. If it is determined that continued classification is required for only a portion of a requested document, those portions of the document that require continued protection will be specifically identified and any remaining portions that can reasonably be segregated may be released in accordance with AR 380-5.

(b) If it appears that the release of unclassified documents would cause damage to the national security, FOIA personnel should request a classification evaluation under paragraphs 2-204, 2-600, 2-800, and 2-801, AR 380-5. In such cases, consideration should also be given to the possible applicability to the

requested documents of other FOIA exemptions set forth in sections 552(b)(2) through (9) of the Act. See § 518.14(b) through (i).

(c) If it appears that a compilation of unclassified documents, or portions thereof, results in a combination of information the release of which might cause damage to national security, consideration shall be given to classification of the compilation under the provisions of paragraph 2-211 of AR 380-5.

(d) If a document or information is not properly or currently classified when a FOIA request for it is received, the request may not be denied on the grounds that the document or information is classified, except with the prior coordination of the Army General Counsel.

§ 518.22 FOIA/OPSEC advisors.

(a) AR 530-1 requires OPSEC points of contact be designated within all HQDA Staff agencies and within all commands. This designated individual should be considered as a FOIA/OPSEC advisor with the following functions:

(1) To advise persons processing FOIA requests regarding the application of OPSEC requirements to specific requests for documents.

(2) To assist FOIA personnel in preparing requests for classification evaluations, and in specifically identifying those portions of documents that must remain classified under section 518.21 and AR 380-5.

(3) To assist FOIA personnel in preparing the triannual report required by section 518.23, regarding those FOIA requests received during the reporting period that have OPSEC implications.

(b) The existence of the FOIA/OPSEC advisor in no way relieves FOIA personnel and proponents of material being requested from protecting classified or exempted material.

§ 518.23 Triannual reporting requirements.

(a) The cost of administering the Freedom of Information Act program, and certain other information pertaining to the program, must be reported triannually to the Director of Freedom of Information and Security Review, OASD(PA). This report is also assigned RCS: DD-PA(TRA&A)1365.

(b) Feeder reports for this report will be submitted by initial Denial Authorities, and all other Army commands, agencies, and activities which process Freedom of Information Act requests. Commanders of major commands will consolidate reports of subordinate activities.

(c) These feeder reports will be submitted to HQDA(DAAG-AMR-S)

WASH DC 20314. They must arrive at that office not later than—

(1) 20 May (for the report period ending 30 April)

(2) 20 September (for the report period ending 30 August)

(3) 20 January (for the report period ending 31 December)

Extensions to these required dates will not be granted.

(d) DA Form 4835-R will be used to report triannual and annual program costs.

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32 CFR Part 657

[AR 420-76]

Environmental Quality; Facilities Engineering, Pest Management Program

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending 32 CFR Part 657 to clarify policies, responsibilities, and procedures for conducting pest management programs on all Army installations and to incorporate recent changes and additions in guidance provided by the Department of Defense.

DATE: Effective date: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: James F. Smith, Buildings and Grounds Branch, Military Programs Directorate, Office, Chief of Engineers, Washington, DC 20314, (202) 272-0592.

SUPPLEMENTARY INFORMATION: On 18 October 1977, the Secretary of the Army, acting through the Chief of Engineers, published a final rule prescribing policies, responsibilities, and procedures for conducting pest control services on all Army installations and activities (32 CFR 657). Subsequently, the Department of Defense issued on 6 November 1978 a revision to DOD Directive 4150.7, "Department of Defense Pest Management Program," and issued on 5 January 1979 Defense Environmental Quality Program Policy Memorandum No. 79-2, "Department of Defense Pest Management Program." These documents provided additional and revised guidance on pest control applicator policy, integrated pest management, and program reviews. Additional amendments are made to provide clarification and simplification. Because the amendments merely clarify existing Army policy and implement recently established Department of Defense policy and guidance, it is unnecessary to propose these amendments for public comment. Since

the amendments made are found throughout the document, the entire regulation is republished.

The Office of the Chief of Engineers has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under EO 11821 and OMB Circular A-107. In addition, it has been determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under EO 12044, Improving Government Regulation (43 FR 12661, March 24, 1978), or an environmental impact statement under the National Environmental Policy Act.

Accordingly, 32 CFR Part 657 is revised to read as follows:

1. The title of 32 CFR Part 657 is amended to read as follows:

PART 657—FACILITIES ENGINEERING, PEST MANAGEMENT PROGRAM

2. The balance of 32 CFR Part 657 is amended to read as follows:

Subpart A—General

Sec.

- 657.1 Purpose.
- 657.2 Applicability.
- 657.3 Explanation of terms.
- 657.4 Objectives.

Subpart B—Policies

- 657.11 Supervision.
- 657.12 Operations.
- 657.13 Materials and equipment.
- 657.14 Training and certification.
- 657.15 Environmental quality.
- 657.16 Nonappropriated fund activities.
- 657.17 Property leased to the Government.
- 657.18 Cooperation with other agencies.
- 657.19 Quarantine.
- 657.20 Aerial application of pesticides.
- 657.21 Outleased property.
- 657.22 Contractual pest management.

Subpart C—Responsibilities

- 657.31 MACOM Commanders.
- 657.32 Installation commanders.
- 657.33 Facilities engineers.
- 657.34 Surgeon general.
- 657.35 Building occupants.
- 657.36 Pest management coordinator.

Subpart D—Procedures

- 657.41 Pesticide handling.
- 657.42 Pesticide disposal.
- 657.43 Augmentation contracts.
- 657.44 Records and reporting requirements.

Subpart E—Appendix

- 657.51 Guidelines for reviewing pest management program.
- 657.52 Format for special planned pesticide usage report.

Subpart F—Glossary

- 657.61 Glossary.

Authority: 10 U.S.C. 3012.

Subpart A—General

§ 657.1 Purpose.

This regulation provides policies, standards, and certain procedures for pest control activities at US Army installations. It sets minimum levels of pest control operations in real property maintenance activities (RPMA). These operations are compatible with national mandates and for protecting the environment.

§ 657.2 Applicability.

(a) This regulation applies to the Army Reserve, the Army National Guard, and to all installations and activities worldwide under control of the DA. Control is by ownership, lease, or similar ways under the following conditions of use:

- (1) Installations and activities—
 - (i) In active use by the Army.
 - (ii) Held in an inactive or standby condition for future active use by the Army.
 - (iii) In an excess category. (See AR 405-90, Disposal of Real Estate, for further guidance on excess properties.)
- (2) Federally operated installations and activities, or portions thereof, which the National Guard uses full time or part time; or DA is holding them for use by the National Guard.
- (3) Installations and activities, or portions thereof, which the Army Reserve or ROTC use full time or part time.

(b) This regulation does not apply to—

- (1) Civil Works functions of the Corps of Engineers.
- (2) Facilities occupied by Army activities as tenants when real property control is under another military department or Government agency, such as the General Services Administration.
- (c) Installations outside the United States will comply with this regulation, except if—

- (1) Specifically exempt.
- (2) In conflict with laws, customs, conditions, or practices of the host country.

§ 657.3 Explanation of terms.

The terms used in this regulation are explained in the Glossary.

§ 657.4 Objectives.

This regulation's objectives are to—

- (a) Develop, start, and maintain safe and effective programs for pest control at each Army installation.
- (b) Maintain and protect the health, environmental quality, esthetic values, and ecological balance of the military community by—

- (1) Protecting real estate investments from depreciation due to pests.
- (2) Complying with environmental protection and improvement policies per AR 200-1, Environmental Protection and Enhancement.
- (3) Controlling potential disease vectors when needed.
- (4) Preventing damage of natural resources by insects or other pests.
- (c) Keep and improve operating personnel competence and skill through periodic training and testing.
- (d) Prevent medical or economic pests from being introduced or spread into or throughout the United States, its territories, or possessions by Army operations.

Subpart B—Policies

§ 657.11 Supervision.

Except as specifically exempted below and in § 657.21, § 657.22 and § 657.43, only DOD trained and certified personnel will apply the pesticides, or it will be done by others under their direct supervision.

(a) At each Army installation worldwide there should be at least two DOD certified pesticide applicators performing pest control. Sometimes this requirement may be relaxed, e.g., tenant activities, overseas, contractual arrangements, and base closures. Send requests for exception with justification to HQDA (DAEN-MPO-B), Washington, D.C. 20314.

(b) All personnel will be trained and certified in accordance with the DOD Plan for Certification of Pesticide applicators who—

- (1) Perform pest management activities at least 25% of their on-duty time;
- (2) Apply restricted-use pesticide.
- (c) Part-time pesticide applicators (less than 25% on-duty time) who do not use restricted-use pesticides will be trained in—
 - (1) The safe, efficient, and environmentally sound use of pesticides.
 - (2) Other integrated pest management (IPM) methods

§ 657.12 Operations.

- (a) Installations will use IPM techniques in their pest management programs as much as possible.
- (b) Installation pest management activities will be scheduled to—
 - (1) Assure effective preventive and corrective measures.
 - (2) Ensure that surveillance and control activities prevent excessive pest populations from developing.
 - (3) Minimize the impact on the environment.
 - (c) Installations will make preventive pesticide applications only when pests

are expected or a practical schedule for IPM cannot be made.

§ 657.13 Materials and equipment.

(a) Pesticides and equipment in the Federal Supply Catalogs, DOD section, will normally be used. Microfiche of catalogs C6800IL and 3740/50IL are available from Cdr, US Army Adjutant General Publications Center, 1655 Woodson Road, St. Louis, MO 63114. Use of a pesticide other than those registered by the Environmental Protection Agency (EPA) or states and approved for specific application per the label is not authorized. Direct requests to use pesticides according to specific public health and quarantine exemptions or experimental use permits through the MACOM professional pest management personnel (MPPMP) to HQDA(DAEN-MPO-B) for review and appropriate action. Pesticides that have been suspended or cancelled by EPA will only be used per the suspension or cancellation order and will not be used after the date indicated on the order. To avoid having cancelled or suspended materials on hand, limit purchases to that which can be used within 90 days.

(b) Appropriate MPPMP will review and approve proposed projects before acquiring or applying—

- (1) Nonstandard pesticides and pest control equipment.
- (2) State-registered pesticides.
- (c) Alternate pesticides (standard or nonstandard) which do not meet contract specifications must be approved by MPPMP.
- (d) Send requisitions for all nonstandard and state-registered pesticides to the MACOM for review and written approval. Agencies or commands without access to MPPMP support may obtain requisition review service from HQDA(DAEN-MPO-B), WASH, DC 20314.

- (1) Pesticide requisitions must—
 - (i) Have data about the target pest.
 - (ii) Describe the area to be treated.
 - (iii) Give the extent of the area to be treated.
 - (iv) Give the rate of application.
 - (v) Give the name and certification number of the applicator.
 - (vi) Justify the pesticide's use.
- (2) On the requisition's written approval by the proper MPPMP, nonstandard pesticides may be purchased locally.

(e) Equipment listings are contained in TM 5-632. Procurement criteria are in AR 420-17. Information about new developments in equipment is available from the MPPMP.

§ 657.14 Training and certification.

(a) All pesticide applicators who determine the effectiveness or selection and application of pest control on Army real property must be periodically trained and examined. Training for first certification and recertification will be done under the DOD Plan for Certification of Pesticide Applicators.

(1) Prerequisites for attending the training courses include—

- (i) A term (MPPMP approved) of successful on-the-job training.
- (ii) Successful completion of the correspondence course, Basic Pest Control Technology, NTTC Course 150. This course is conducted by the Navy Public Works Center, Norfolk, VA 23511. The MPPMP must approve the applications for this course.

(2) CONUS installation (includes Hawaii and Alaska) pesticide applicators will be trained in specific courses given at—

- (i) US Army Health Services Command, Ft Sam Houston, TX.
- (ii) US Air Force at Sheppard Air Force Base, TX.
- (iii) US Navy at Jacksonville Naval Air Station, FL.
- (iv) Naval Air Station, Alameda, CA.

(3) All pesticide applicators who are candidates for their first certification must successfully complete the core phase and the special categories of training desired at one of the training facilities indicated above.

(4) Obtain quotas for the US Army Health Services Command training from the US Army Medical Department Personnel Support Agency, ATTN: SGPE-ED, WASH, DC 20324. Contact this office by calling AUTOVON 223-5358 or 223-5559. Personnel using pesticides should keep abreast of developments by attending local and state training sessions and trade and professional meetings.

(5) Training of pesticide applicators at oversea installations will follow the DOD Plan for Certification of Pesticide Applicators, except as follows:

- (i) The Medical Command (MEDCOM) or MACOM professional pest control personnel will do the training.
- (ii) Personnel must be trained to apply pesticides according to the host country's laws when they differ from United States laws. The more restrictive law for use and disposition of pesticides will be followed.

(b) Training will be available in the following categories:

- (1) Agricultural pest control (animal).
- (2) Forest pest control.
- (3) Ornamental and turf.
- (4) Aquatic.
- (5) Rights-of-way.

(6) Industrial, institutional, structural, and health related.

(7) Public health.

(8) Demonstration and research.

(c) A DD Form 1826 (Certificate of Competency) will be issued to those who meet the required competency levels, and, as recommended by MPPMP, for the appropriate categories. Certificate of Competency will be valid for not more than 3 years. Recertification will require refresher training, written test, and reassessing on-the-job competency. DD Form 1826 is available from the OCE Publications Depot, 890 South Pickett Street, Alexandria, VA 22301.

(d) Supervisors and certified applicators will train new hires on the job. MPPMP may assist in training during technical visits and in special MACOM-sponsored training sessions.

§ 657.15 Environmental quality.

Pest control will be planned and conducted to minimize or eliminate adverse environmental effects. If required, prepare and process draft documents and final environmental impact statements on time per AR 200-1.

§ 657.16 Nonappropriated fund activities.

Only trained and certified personnel or those under their direct supervision will apply pesticides at nonappropriated fund activities. (See § 657.11.) Contracts for pest control at nonappropriated fund activities will be governed by this regulation.

§ 657.17 Property leased to the Government.

(a) CONUS and overseas.

(1) Lease instruments will be negotiated to note the responsibilities of the lessor and of the lessee (Government) for accomplishing pest control. In foreign countries, these responsibilities will be predicated on custom, condition, and practices of the country concerned.

(2) Occupants will keep the leased premises clean and sanitary.

(b) CONUS (includes Alaska and Hawaii). Where feasible, the lessor will—

(1) Furnish and keep the leased housing free of pest infestation (AR 420-71 leased premises).

(2) Use controls and pesticides that conform to Federal, state, and local regulations for facilities under DA control.

§ 657.18 Cooperation with other agencies.

(a) *General.* Specialists of other Federal agencies assist with problems of medical, agricultural, and environmental importance (e.g., disease and pest control, quarantine control, customs

inspection, fish and wildlife protection, water protection) as requested. The installation commander will ask the appropriate MACOM commander for these services. These agencies include the—

(1) US Department of Health and Human Services (Public Health Service).

(2) US Department of Agriculture (plant protection, quarantine, and veterinary services of the animal and plant health inspection services).

(3) US Department of the Interior (Fish and Wildlife Service).

(4) US Treasury Department (Bureau of Customs).

(5) Environmental Protection Agency (Office of Pesticide Programs).

(b) *Coordination.* Installations will coordinate environmental assessments of outdoor applications of pesticides with departments and agencies in (a) above. This coordination will be requested through the MACOM to the appropriate agency. Requirements for Environmental Impact Assessments (EIA) or Environmental Impact Statements (EIS) for certain application of pesticides are provided in AR 200-1.

(c) *Notification.* Installations will notify MACOM's of proposed visits or surveys by representatives of organizations in (a) above when these visits or surveys relate to quarantine or to past or proposed pesticide use.

§ 657.19 Quarantine.

(a) In accordance with AR 700-93 Possessing and Shipping DOD Sponsored Retrograde Materiel Destined for Shipment to the United States, its Territories, Trusts, and Possessions, and AR 40-12, Medical and Agricultural Foreign and Domestic Quarantine Regulations for vessels, aircraft, and other transports of the Armed Forces, all command levels will cooperate fully with Government agencies responsible for quarantines of agricultural and public health significance.

(b) MACOM commanders will ensure that areas to receive pesticide treatment are limited to the minimum needed to meet quarantine requirements.

(c) Installations will procure pesticides, equipment, and other materials needed to comply with quarantine requirements.

§ 657.20 Aerial application of pesticides.

Applying pesticides by air will be done per AR 40-574, calibration procedure for multimeters AN/PSM-6, AN/PSM-6A, Pesticides. Prepare an EIA before aerial application, followed by an EIS, if needed.

§ 657.21 Outleased property.

Outgrant holders must comply with all pesticide and animal damage control laws, ordinances, specifications, and rules in land use regulations that are part of the outgrant document. Before starting any compliance program that deviates from the land use regulations, get the MACOM to review and approve details of the program. Where possible, supplemental agreement to existing outgrants, renewed or amended, will make provisions for compliance requirements stated above. (See AR 420-74, Natural Resources; Land, Forest, and Wildlife Management).

§ 657.22 Contractual pest management.

(a) Decisions made on in-house versus contract must agree with current DA Commercial and Industrial Type Activities (CITA) directives. (See § 657.43 for augmentation contracts.)

(b) Installations in states that give pesticide training, regulation, and certification programs having final approval by EPA will decide on contract or in-house method per effective CITA directives. State certification is accepted for competency. DOD certification is not needed.

(c) MPPMP will review and approve technical provisions of all proposed contracts. Commander-in-Chief, US Army Europe, US Army Japan, and Eighth US Army may delegate this approval.

(d) Personnel with a current DD Form 1826 covering categories in the contract will review all pest control contracts. The review must assure contractual work is in accord with contract specifications. Review will include, but not be limited to—

(1) On-site inspection of unopened pesticide containers to verify that the chemical listed on the label—

(i) Meet contract specifications.
(ii) Can be applied in accordance with the registered use.

(2) Watching—
(i) Mixing and equipment operations.
(ii) Rate of application (volume versus area).

(iii) To detect environmental hazards.
(iv) Safety precautions.

(e) Copies of each contract awarded and the cost comparison pertaining to the contract will be given the MPPMP.

Subpart C—Responsibilities

§ 657.31 MACOM Commanders.

MACOM commanders will provide command and technical supervision of the pest management program at installations under their command. They will have enough PPMP to assure that all areas of pest management have

professional direction. Small MACOM's without justification for MPPMP will obtain an intraservice support agreement with a MACOM that is appropriately staffed. MPPMP serving on the engineer staff will—

(a) Advise on all aspects of pest management operations. Included are—

- (1) Manpower requirements.
- (2) Operational needs.
- (3) Minimizing pesticidal environmental impact.
- (4) Training and certifying pest control personnel.

(5) Procedural needs to assure efficient pest control programs.

(b) Coordinate with other agencies to implement environmentally safe and efficient pest control programs.

(c) Coordinate with Army medical authorities to implement their responsibilities as given in AR 40-5.

(d) Review and provide written approval to user of—

- (1) Nonstandard pesticides.
- (2) State-registered pesticides.
- (3) All equipment prior to procurement, as indicated in § 657.13.

(e) Ensure that—

(1) Annual on-site reviews of installation pest management and surveillance activities are done by PPMP.

(2) Recommendations that would result in safer, more economical, and more effective operations are made to facilities engineers.

(3) MACOM requirements for Army Medical Department (AMEDD) PPMP help in providing on-site reviews of installation pest management and surveillance programs will be coordinated with US Army Health Services Command. Guidance for conducting program reviews is provided in Appendix § 657.51.

(f) Maintain professional proficiency by—

- (1) Attending professional meetings.
- (2) Keeping abreast of new developments reported in professional publications.

(g) Assist in providing on-the-job training for installation pest control personnel to—

- (1) Select, use, and maintain pest control equipment.
- (2) Select, prepare, and apply pesticides.
- (3) Report accurately the usage of these materials.

(h) Maintain record of training and certification status of pesticide applicators and check their activities to determine competence.

(i) Certify pest management personnel in accordance with the DOD Training and Certification Plan.

(j) Review and approve technical provisions of all pest management contracts prior to solicitation of bids.

(k) Provide technical review of all military construction, modification, and repair projects to assure structural pest control requirements are included.

§ 657.32 Installation commanders.

Installation commanders will—

(a) Determine an installation's position and responsibilities in community-wide pest control regarding quarantine and epidemics.

(b) Maintain liaison with MACOM's about pest surveys and investigations proposed by other agencies.

(c) Establish lessee responsibility for using pesticides on outgrants of military real property.

(d) Initiate requests for aerial spraying of pesticides as prescribed in AR 40-574.

(e) Designate a pest management coordinator for all installation pest management activities.

(f) Approve and support the installation's pest management program formulated by the facilities engineer and the installation surgeon and approved by the MPPMP.

§ 657.33 Facilities engineers.

Installation facilities engineers will—

(a) Develop a comprehensive written pest management plan for the installation following the guidance in TM 5-632, chapter 2, section 3, and this regulation.

(b) Supervise and direct pest management operations.

(c) Conduct preventive maintenance and surveillance inspections at timely intervals.

(d) Ensure that operating personnel receive adequate training to achieve required certification.

(e) Provide on-the-job training of new operating personnel.

(f) Obtain and maintain adequate supplies of materials and equipment.

(g) Assure all pest management operations are done safely.

(h) Decide the phases of pest control to be done by contract, based on existing policies. Included are—

(1) Preparing needed specifications and technical provisions for the contract.

(2) Arranging for the purchasing and contracting (P&C) officer to obtain contract services.

(3) Assuring that contract operations are done per specifications through continuous inspection by personnel holding a valid Certificate of Competency.

(i) Perform all recordkeeping and reporting requirements of this regulation.

(j) Inform heads of nonappropriated fund activities—

(1) That applying restricted-use pesticides at these activities will be done by, or under the direct supervision of, trained and certified personnel.

(2) Where certification training is given.

(k) Assure that pest control services are conducted so as to minimize any adverse effects on the environment.

(l) Cooperate with the installation medical authority by—

(1) Furnishing and maintaining mosquito light traps.

(2) Performing essential pest control operations indicated by results of surveillance of medical and quarantine pests.

(3) Providing all needs to meet health safety criteria, including shops, equipment, and protective gear.

(m) Maintain records of operations (e.g., investigations, inspections, manpower use, funds, and pesticides) for analyzing efficiency and economy and evaluating pest control.

§ 657.34 Surgeon general.

The medical authority (State Adjutant General for the National Guard Bureau) serving the installation will—

(a) Conduct surveillance of pest populations involved in the health of the command and those involved in US Department of Agriculture quarantine regulations. The medical authority will give the facilities engineer the results of the survey activities.

(b) Conduct the installation pesticide monitoring program.

(c) Obtain timely identification and susceptibility status of pests to pesticides as necessary. Furnish this information to facilities engineers to be incorporated into pest control operations.

(d) Establish health and personnel safety criteria for pesticide operations.

(e) Assist the engineer MPPMP to conduct annual on-site installation pest management program reviews. (See Appendix 657.51.)

(f) Provide the certification training of pesticide applicators in accordance with the DOD plan.

§ 657.35 Building occupants.

Occupants of buildings, including Army family housing, will—

(a) Apply good sanitation practices to prevent pest infestations.

(b) Apply only those pesticides approved for use by building occupants.

(c) Cooperate fully with installation pest control personnel in scheduling major operations, to include preparing the areas to be treated.

(d) Obtain, through command channels, MPPMP approval before using any contract pest control services.

§ 657.36 Pest management coordinator.

The coordinator will be aware of all pesticide applications on the installation and will assure that—

(a) All pesticide applications are recorded and reported according to this regulation.

(b) All personnel responsible for accomplishing pest management activities know the policies and procedures in this regulation.

Subpart D—Procedures

§ 657.41 Pesticide handling.

(a) *General.* (1) Handle pesticides in accordance with AR 200-1 and appropriate Federal regulations (29 CFR 1910 and 40 CDR 165.10). Assign vehicles with lockable storage suitable for safe transportation of pesticides, personnel, and supplies for control operations. Do not use these vehicles for other purposes. Do not transport pesticides in the cabs of vehicles.

(2) Maintain an accident prevention and environmental protection program within the installation pest management program area.

(b) *Safety.* Current recommendations for design and construction criteria for pesticide mixing or storage facilities and the use of protective devices and clothing is available from the MPPMP and the US Army Environmental Hygiene Agency (USAEHA). Masks, respirators, gloves, and protective clothing will be provided, as required (AR 385-32 and TB Med 223). Pesticide-contaminated clothing will not be home laundered; it will be laundered at Government expense. Dispose of clothing contaminated so severely as to produce an imminent health hazard. For pesticide poisoning, see the installation's surgeon or nearest available doctor. Get added information by calling the local poison control center or USAEHA Pesticide Hotline (AUTOVON 584-3773).

(c) *Pesticide spills.* Report all pesticide spills in accordance with the installation's National Oil and Hazardous Pollution Contingency Plan. If not covered in the plan, notify the installation surgeon, safety officer, fire marshal, state and local authorities, and the appropriate MPPMP. Get added help by calling USAEHA Hazardous Substance Spill Response Team during USAEHA duty hours: Commercial (301) 671-3816 or AUTOVON 584-3816. During USAEHA non-duty hours, Commercial (301) 671-4375 or AUTOVON 584-4375.

(d) *Pesticide storage.* Inspect stored pesticides monthly to determine condition of containers and if shelf life is near or has passed. Maintain inventory of stored pesticides continuously. Certified personnel and safety and fire prevention officers will inspect and record findings.

§ 657.42 Pesticide disposal.

(a) *General.* The installation will not store or dispose of pesticides collected by the civilian community.

(b) *Disposal.* Use serviceable excess pesticides locally for the purpose originally intended, if permitted; report them to the local Defense Property Disposal Office (DPDO); or dispose of them as appropriate. Allowed disposal methods will vary from one place to another, based on available approved pesticide incinerators and designated landfills. Consult the MPPMP on proper disposal procedures. Ask the USAEHA Solid Waste Division for guidance. In overseas areas, follow local laws and Status of Forces Agreements regarding pesticide disposal. Maintain records locally on any pesticide disposal. Rare exceptions to the following prohibited procedures may be granted by the regional administrator of EPA

(1) Do not dispose of any pesticide, its waste, its container, or residue from its container in a way as to cause or allow—

(i) Open dumping.

(ii) Water dumping.

(iii) Well injection.

(iv) Direct exposure that may cause contamination of food or feed supplies, or a manner inconsistent with its label or labeling.

(2) Do not dispose of any pesticide, its waste, its container, or residue from its container in a way inconsistent with its label as to cause or allow open burning. However, in an open field, the applicator may burn small amounts of combustible containers, not more than 50 pounds or the amount used in a single work day, whichever is less (except those formerly containing organic beryllium, selenium, mercury, lead, cadmium, or arsenic compounds). Before burning, consider the following:

(i) Wind direction in relation to receptors such as population centers, field workers, domestic animals, and surface water supplies.

(ii) Burn in accord with Federal, state, or local ordinances.

(iii) Avoid contamination of surface and ground water to levels in excess of Public Health Service standards, US Department of Health and Human Services, for potable water.

(c) *Repacking.* Transfer pesticides in deteriorated containers to approved

clean containers that are lined to protect against chemical reaction. Do not place different formulations of the same pesticide in the same container.

(1) Label replacement containers to include—

(i) The name and strength of the pesticide formulation.

(ii) The registration number.

(iii) Other pertinent manufacturing data (e.g., log number, date of manufacture, and expiration date) from the original label (40 CFR 162.4-162.7).

(2) Serviceable repackaged pesticides should be managed as described for serviceable excess pesticides. (See (b) above.) Details on repackaging are found in AR 200-1.

§ 657.43 Augmentation contracts.

(a) Contracts for supplementing in-house pest management activities will be executed, when required, according to existing procurement regulations and the following guidelines:

(1) The services are economically beneficial to the Government and certified contractors are available.

(2) Application by trained and certified facilities engineering personnel is not feasible because of remote location, project size, or manpower, time, and equipment limitations.

(b) Examples of augmentation pest management contracts include—

(1) Single applications of fumigants for entire building or other large enclosure.

(2) Aerial or special equipment applications over large areas such as mosquito breeding areas.

(3) Wood treatment projects, such as groundline treatment of utility poles.

(4) Extensive termite control.

(5) Other operations which facilities engineering personnel cannot do with in-house resources.

(c) The facilities engineering office, in cooperation with the installation medical authority, will prepare technical requirements for all pest management contracts. The facilities engineer will send project plans and specifications to the appropriate MACOM for review and approval. This approval must be obtained before a request is made for getting the service from commercial sources. Include information on the status of EPA's approval of state plans for training and certifying commercial applicators.

(d) Technical provisions will specify only the pesticides approved by the MPPMP and registered by EPA. Identify the items used by the contractor by quality and quantity.

(e) The contractor must submit proof that the supervisory and applicator personnel to be employed on the contract will—

(1) Meet the state certification standards set in response to EPA's implementation of FIFRA or competency requirements set by HQDA (DAEN-MPO-B) in those States that do not meet FIFRA certification requirements.

(2) Provide safe working conditions for personnel and installation occupants.

(f) Inspect the contract per § 657.22 (d).

§ 657.44 Records and reporting requirements.

(a) Maintain adequate records of all pest control operations. The records will be a reference for monitoring and managing pest control operations.

(b) All installations will maintain daily records of pest management activities on DD Form 1532 (Pest Control Report) or other similar formats.

Included are the data required by the MACOM for the pest control report. These records will be retained at least 2 years.

(c) Use DD Form 1532 to report all pesticide and pest control information required by part I of the form. Part II will not be reported. The recordkeeping and reporting requirements have been assigned Report Control Symbol DD-M (A&AR) 1080. DD Form 1532 may be requisitioned through normal publications supply channels.

(1) Each installation and subinstallation performing pest management will submit the reports monthly or in accordance with MACOM requirements. Copies will be distributed according to instructions on the back of DD Form 1532 and to—

- (i) The appropriate MPPMP.
- (ii) The installation doctor.
- (iii) The USAEHA, Aberdeen Proving Ground, MD 21010.
- (iv) The appropriate medical entomologist at USAEHA Regional Divisions, within 15 days after the report period.

(2) These reports will include all pest control operations conducted by—

- (i) The facilities engineer.
- (ii) Contractors.
- (iii) Government-owned, contractor-operated (GOCO) activities.
- (iv) Nonappropriated fund activities.
- (v) All outgrant lease holders.

(d) Installations will prepare a report annually of anticipated installation pest management programs or projects that—

- (1) Use a restricted-use pesticide.
- (2) Use any pesticide that could reasonably be expected to significantly contaminate surface or ground water.
- (3) Involve 640 or more contiguous acres (1 square mile) being treated as one application.

(4) Involve applying a pesticide by aircraft.

(5) Affect endangered species.
(e) The annual report will describe all anticipated appropriate programs for 1 April through 31 March. Report Control Symbol DD-M(A&AR)1080 has also been assigned to this reporting requirement. Submit reports to HQDA (DAEN-MPO), Washington, DC, 20314 by 1 December preceding the period of planned use. The format at Appendix B will be used in making this report. Include details about the—

- (1) Objective of the program.
- (2) Target pest.
- (3) Pesticide.
- (4) Application procedures.
- (5) Description of the area.
- (6) Sensitive areas or issues.
- (7) Any remarks helpful in reviewing the program.

Subpart E—Appendix

§ 657.51 Guidelines for reviewing pest management program.

(a) The following guidelines will—
(1) Aid PPMP's with the annual on-site program review at all major Army installations.

(2) Get maximum use of all PPMP's (MACOM and USAEHA) working on program reviews.

(3) Obtain maximum benefits from program reviews.

(b) The following will be accomplished:

(1) Before the start of each fiscal year, the MACOM will decide priorities for installation programs needing review.

(2) This priority listing will be coordinated with pest management program reviews planned by USAEHA.

(3) As determined by specific problems or activities at the installation, program reviews by both the MACOM and USAEHA during the same 12-month period will be avoided.

(4) Before reviewing a program, the agency conducting the review (MACOM or USAEHA) will contact the other agency to determine any problem areas to be covered.

(5) When the annual on-site review is performed by personnel from a single professional interest (e.g., entomology), coordinate with other MACOM/USAEHA professionals (e.g., agronomists, foresters, biologists) to assure all aspects of the total program are reviewed. Prepare a checklist before each review of known problem areas and special interest items.

(6) The agency (MACOM/USAEHA) reviewing a program will provide a copy of its report to the other agency for information and action.

(7) When deficiencies in a pest management program are noted, the

agency responsible (MACOM engineer/surgeon) will correct the deficiency and provide a followup report within 120 days to other concerned agencies (MACOM/USAEHA).

§ 657.52 Format for special planned pesticide usage report.

(a) Location (include state and county).

(b) Project number (if applicable).

(c) Objective.

(1) Target pest.

(2) Purpose (examples: health and morale, wood protection, water management, weed control, protection of ornamental and turf, quarantine).

(d) Pesticide.

(1) Common name.

(2) Formulation.

(3) Concentrations of active ingredient (percent by weight or volume, or lbs/gal).

(4) Standard/nonstandard (include a sample label).

(5) EPA Registration No.

(e) Application.

(1) Form applied (dust, emulsion, gas, etc.).

(2) Use strength (percent) or dilution rate.

(3) Diluent.

(4) Rate (lbs per acre, etc.).

(5) Method (aerial, ground, manual, etc.).

(6) Area.

(i) Acres or other unit to be treated.

(ii) Number of applications.

(iii) Frequency of application to same sites.

(iv) Number of sites/application to occur.

(v) Specific identity of each site.

(7) Months of year pesticide application to occur.

(f) Sensitive areas.

(1) Areas to be avoided (crop lands, lakes, streams, endangered species habitat, etc.).

(2) Areas to be treated with caution (specific identity of each site to include state and county).

(g) Remarks (includes, but not limited to, precautions to be taken, non-chemical alternatives considered, state and local coordination, other pesticides being applied to same sites, and whether treatment is to be done with in-house resources or by contract).

Subpart F—Glossary

§ 657.61 Glossary.

(a) *Certification*. A pesticide applicator's competency must be certified by designated MACOM professionals and installation officials under the DOD Plan for Certification of Pesticide Applicators. The designated

professional recommends a Certification of Competency (DD Form 1826) be issued to qualified candidates. Upon approval by the installation commander, certification is complete.

(b) *Certification Categories.* Ten primary categories of certification training have been set by mandate (40 CFR 171.3) as special training requirements in addition to basic training. Eight of these categories are in the DOD certification plan. They apply to the variable conditions encountered in DA pest control operations. These include—

- (1) Agricultural Pest Control (Animals).
- (2) Forest Pest Control.
- (3) Ornamental and Turf.
- (4) Aquatic.
- (5) Rights-of-Way.
- (6) Industrial, Institutional, Structural, and Health Related.
- (7) Public Health.
- (8) Demonstration and Research.

(c) *Integrated Pest Management (IPM).* Combining control techniques to prevent, eliminate, and suppress pests.

(d) *MACOM Professional Pest Management Personnel (MPPMP).* Professional pest management personnel working in RPMA on the major Army command (MACOM) staff of the engineer and medical entomologist assigned to the engineer or surgeon.

(e) *Nonstandard Pesticides and Equipment.* Includes all pesticides and equipment not listed in the DLA catalog as standard items. These items can be purchased locally after the MPPMP has given written approval.

(f) *Operating Personnel.*

(1) Certified personnel who have been trained under the DOD Plan for Certification of Pesticide Applicators and have been issued a DD Form 1826.

(2) Trainee personnel who operate under the direct supervision of a certified person.

(3) Part-time pesticide applicators as defined in § 657.11(c).

(g) *Pest Management.* Pest control or prevention considering—

- (1) Suppression techniques.
- (2) The pests' habitat.
- (3) Interrelationships between the pests and the ecosystem.

(h) *Pesticide Classification.* Pesticide categories based on toxicity and use patterns for general or restricted use by the US Environmental Protection Agency (EPA) under PL 92-516.

(1) *Pesticides.* Substances and combinations of substances to prevent, destroy, repel, or mitigate pests. Also, substances and mixtures used as plant regulators, defoliants, or desiccants.

(j) *Pests.*

(1) Those land or aquatic organisms that—

- (i) Adversely affect the health and welfare of man and animals;
- (ii) Attack military real property, stored supplies, or equipment; or
- (iii) Are otherwise undesirable by their presence.

(2) These pests include, but are not limited to arthropods, birds, rodents, nematodes, fungi, bacteria, viruses, algae, snails, marine borers, snakes, and weeds.

(3) Excluded are viruses, bacteria, and fungi normally living on or in human or other living animals.

(k) *Professional Pest Management Personnel (PPMP).*

(1) Military officers or civilian employees of DOD or its components—

(i) With a college degree in a biological or agricultural science, such as agronomy, entomology, forestry, or wildlife biology.

(ii) In a current assignment that includes pest management responsibilities on a regular basis.

(2) Civilian personnel also must meet the minimum requirements of governing Office of Personnel Management qualification standards.

(3) PPMP should have at least 2 years' professional experience.

(1) *Registered Pesticide.* A pesticide that the EPA administrator or EPA-approved states have registered per 7 USC 135.

(m) *Restricted-Use Pesticide.* A pesticide that the EPA administrator determines per 7 USC 135 that, when applied according to directions, without added restrictions, it may cause unreasonable adverse effects on the environment or injure the applicator.

(n) *Standard Pesticides and Equipment.* Pesticides and equipment, standardized, purchased, and stocked as items proven best for use at defense installations. Includes only EPA-registered pesticides and equipment which—

(1) Are rated and approved for standardization by the Armed Forces Pest Management Board.

(2) Have a national stock number (NSN).

(3) Are listed in the Defense Logistics Agency (DLA) catalog.

Dated: October 30, 1980.

Forrest T. Gay III,

Colonel, Corps of Engineers Executive Directive Engineer Staff.

[FR Doc. 80-34475 Filed 11-4-80; 8:45 am]

BILLING CODE 3710-08-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Measurement of Internship and Residency Courses

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations allow for measurement of medical and dental internships and residencies on a less than full-time basis when determining the amount of educational assistance to be paid to a veteran or eligible person. Recently, instances have arisen where veterans have pursued on a less than full-time basis internships and residencies accredited by the Council on Dental Education of the American Dental Association. Since there was no provision in the regulations to measure such courses, the veterans could not be paid educational assistance. The amendment corrects this, and allows these veterans and eligible persons to be paid educational assistance.

EFFECTIVE DATE: October 29, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: On pages 50369-50373 of the *Federal Register* of July 29, 1980, there were published proposed regulations to permit payment of educational assistance allowance to veterans and eligible persons pursuing medical or dental internships or residencies part-time.

Interested persons were given until August 28, 1980 to submit comments, suggestions or objections. We received no comments, suggestions or objections. The proposed amendments to §§ 21.4270 and 21.4275 are adopted without change. The final amendments are set forth below.

Approved: October 29, 1980.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

1. In § 21.4270, paragraph (b) is revised to read as follows:

§ 21.4270 Measurement of courses.

* * * * *

(b) Collegiate, professional and on-the-job training courses shall be measured as stated in this table. Clock hours and class sessions mentioned in this table mean clock hours and class sessions per week.

Courses		Full time	¾ time	½ time	Less than ½ more than ¼ time	¼ time or less
Kind of school	Kind of course					
Collegiate undergraduate.	Standard collegiate courses including cooperative and external degree programs ¹ .	14 semester hours or equivalent ² .	10 through 13 semester hours or equivalent.	7 through 9 semester hours or equivalent.	4 through 6 semester hours or equivalent.	1 through 3 semester hours or equivalent.
Collegiate graduate.	Standard collegiate graduate courses including law and external degree programs ¹ .	14 semester hours or equivalent or as certified by a responsible official of the school ² .	10 through 13 semester hours or as certified by a responsible official of the school.	7 through 9 semester hours as certified by a responsible official of the school.	4 through 6 semester hours or as certified by a responsible official of the school.	1 through 3 semester hours or as certified by a responsible official of the school.
Professional nonaccredited.	Law only ³ .	12 class sessions per week.....	9 through 11 class sessions per week.	6 through 8 class sessions per week.	4 through 5 class sessions per week.	1 through 3 class sessions per week.
Professional accredited and equivalent.	Internships and residencies: Medical, Dental, Osteopathic.	As established by accrediting association.	As established by accrediting association or entity offering the internship or residency.	As established by accrediting association or entity offering the internship or residency.	As established by accrediting association or entity offering the internship or residency.	As established by accrediting association or entity offering the internship or residency.
	Nursing, X-ray, medical technology, medical records librarian, physical therapy ⁴ .	18 clock hours or 14 semester hours, as appropriate.	13 through 17 clock hours or 10 through 13 semester hours, as appropriate.	9 through 12 clock hours or 7 through 9 semester hours, as appropriate.	5 through 8 clock hours or 4 through 6 semester hours, as appropriate.	1 through 4 clock hours or less than 4 semester hours, as appropriate.
Training establishment.	Apprentice or other on-the-job ⁵ .	Standard workweek.....Full time only.....
Agricultural.....	farm cooperative ⁶	10 clock hours net instruction ⁷ .	7 clock hours net instruction.....	5 clock hours net instruction.....No provision.....

¹ Independent study programs will be measured as provided in § 21.4280. Cooperative courses may be measured on a full-time basis only.

² Where the institution certifies that all undergraduate students enrolled for a minimum of 12 or 13 semester hours or the equivalent are (1) charged full-time tuition, or (2) considered full-time for other administrative purposes, such minimum hours will establish the criteria for full-time measurement.

When 12 hours is properly certified as full-time, 9 through 11 hours will be measured as ¾ time, 6 through 8 hours will be measured as ½ time, 4 through 5 hours will be measured as less than ½ time and more than ¼ time, and 1 through 3 hours will be measured as ¼ time or less. All other undergraduate courses will be measured as indicated in the table for undergraduate or professional courses as appropriate, but where 13 credit hours or the equivalent is certified as full time, ¾ time will be 10 through 12 hours. When in accordance with § 21.4273(a), a responsible official of a school certifies that a lesser number of hours constitute full time, ¾ time, ½ time, less than ½ time and more than ¼ time, or ¼ time, the certification will be accepted for measurement purposes.

Upon request of a beneficiary, an increase in rates warranted under this criteria may be authorized to him or her effective March 26, 1970, if he or she was enrolled on or after March 26, 1970. The request of the beneficiary will not be required for other payments under this criteria.

To meet criteria for full-time measurement under 38 U.S.C. chapters 34 and 35 in standard collegiate courses which include required noncredit deficiency courses, in the absence of a certification under § 21.4272(f) the noncredit deficiency courses will be converted on the basis of the applicable measurement criteria, that is, 18, 25 or 30 clock hours, 4 "Carnegie Units", or 12, 13 or 14 (as appropriate) semester hours equal full time. The credit-hours equivalent of such noncredit courses may constitute any portion of the required hours for full-time measurement.

³ Class sessions measured on basis of not less than 50 minutes of classroom instruction. Supervised study periods, class breaks and rest periods are excluded.

⁴ Supervised study must be excluded.

⁵ Full-time training will consist of the number of hours which constitute the standard workweek of the training establishment, but not less than 30 hours unless a lesser number of hours is established as the standard workweek for the particular establishment through bona fide collective bargaining between employers and employees.

⁶ In measuring net instruction there will be included customary intervals not to exceed 10 minutes between classes. Shop practice and rest periods are excluded. Supervised instruction periods in school's shops in farm cooperative programs and the time involved in field trips and individual and group instruction may be included in computing the clock hour requirements.

⁷ For full-time training the 440 clock hours a year may be prescheduled to provide not less than 80 clock hours in any 3-month period.

(38 U.S.C. 1682, 1732, 1777, 1787, 1788)

2. In § 21.4275, paragraph (a) is revised to read as follows:

§ 21.4275 Practical training courses; measurement.

(a) *Medical, osteopathic and dental internships and residencies.* Medical, osteopathic, and dental internship and residency courses will be measured as provided in § 21.4270(b) if accredited and approved in accordance with § 21.4265(a) (38 U.S.C. 1788(b))

* * * * *

[FR Doc. 80-34436 Filed 11-4-80; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5769

[M-38061]

Montana; Revocation of National Forest Administrative Site Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order which withdrew 80

acres of national forest lands for use by the Forest Service as an administrative site. The Forest Service intends to dispose of the lands through an exchange in the furtherance of its programs.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Dan Stark, Montana State Office, 406-657-6291.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of February 23, 1909, which withdrew the following described national forest lands as an administrative site is hereby revoked:

Principal Meridian

Gallatin National Forest

T. 2 N., R. 6 E.,

Sec. 12, W ½ NE ¼.

Containing 80 acres in Gallatin County.

2. Effective immediately, the above described lands shall be open to applications for the disposal of lands under the General Exchange Act of March 20, 1922, 42 Stat. 465, as amended, 16 U.S.C. 485, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws.

Guy R. Martin,

Assistant Secretary of the Interior.

October 29, 1980.

[FR Doc. 80-34488 Filed 11-4-80; 8:45 am]

BILLING CODE 4310-84

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1039 and 1300

[Ex Parte No. 387]

Railroad Transportation Contracts

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interim rules and request for comments.

SUMMARY: Section 208 of the Staggers Rail Act of 1980 (Rail Act) (Pub. Law 96-448) permits rail carriers and purchasers of rail service to enter into contracts for rail service. These contracts must be filed with the Commission, with a summary of non-confidential information related to the contract provisions, and with the essential terms presented in tariff format for public inspection. The Commission is establishing interim rules to implement these provisions of the Rail Act, which will be effective immediately, with respect to contracts filed after the effective date of the Rail Act.*

DATES: The interim rules are effective November 5, 1980. Comments will be accepted on or before December 22, 1980.

*The Commission will issue a separate notice on the impact of the Rail Act on Ex Parte No. 358 (Sub-No. 1), *Change of Policy, Railroad Contract Rates* (served April 25, 1980) [45 FR 28381, April 29, 1980], which involved proposed standards for railroad contract rates.

ADDRESS: An original and twenty copies of any comments should be mailed to: Interstate Commerce Commission, Room 5340, Washington, DC 20423, Attention: Ex Parte No. 387.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 275-7693, or Richard Schiefelbein, (202) 275-0826.

SUPPLEMENTAL INFORMATION: On October 14, 1980, the President signed the Staggers Rail Act of 1980 (Rail Act). Section 10713 of the Rail Act expressly permits rail carriers to enter into contracts for rail service with purchasers of rail service. These contracts must be filed with the Commission, with a summary of non-confidential information related to the contract provisions, and with the essential terms presented in tariff format for public inspection. The importance of this provision cannot be overemphasized. This fact, plus our belief that our interim rules are consistent with the Rail Act, has led us to impose these rules on an interim basis pursuant to 5 U.S.C. 553. The application of these rules is limited to contracts which are filed after the effective date of the Rail Act.

Challenges to Contracts

The grounds on which a contract can be challenged are limited. The Commission may initiate a proceeding to review a contract either on its own initiative or in response to a complaint. Complaints may be filed only by a shipper or a port. In either case, the grounds for initiating a proceeding are limited to those described below.

In general, contracts can be challenged only on an allegation that the specific contract will harm the complaining shipper individually by unduly impairing the rail carrier's ability to provide common carrier service to that shipper. Two exceptions are contained in the Rail Act that permit challenges on additional grounds. First, a port may file a complaint on the grounds of "unreasonable discrimination" (but not on impairment of common carrier service ability grounds). Second, a shipper may file a complaint on a contract for transportation of agricultural commodities (including forest products and paper) on the grounds of "unreasonable discrimination" if it can allege that the rail carrier refused to enter into a similar contract with the shipper, or that the contract will unduly impair the rail carrier's ability to provide common carrier service to the shipper, or that the contract constitutes a destructive competitive practice. Other

than challenges by ports and complaints regarding agricultural commodity contracts, no other person or entity may challenge a contract on "unreasonable discrimination" grounds.

We note that "unreasonable discrimination" as used in the Rail Act is limited, in the case of agricultural shippers, by the provisions of section 10713(d)(2)(B)(i), to only the situation in which the railroad has refused to enter into a contract with the shipper "for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered."

Approval/Disapproval of Contracts

With the exception of a finding of "unreasonable discrimination" in an agricultural contract, a Commission finding supporting the shipper's or the port's complaint will cause disapproval of the contract. If the Commission finds that a contract for transportation of agricultural products "unreasonably discriminated" against the complaining shipper, the Commission will order the rail carrier to provide rates and service substantially similar to the contract at issue to the complaining shipper.

If the Commission does not initiate an investigation within 30 days the contract will stand approved. If the Commission does not disapprove the contract by the 60th day after it is filed, then the contract is automatically approved and becomes effective in accordance with its terms.

Filing Requirements

Section 10713(b) requires that contracts be filed with the Commission together with a summary of the nonconfidential contract information specified by the Commission, and directs the Commission to establish special tariff rules to assure that the essential elements of the contract are available to the general public in tariff form.

We interpret this provision to mean that the summary must be available to the public, but that the actual contract filed with the Commission need not be made available and should be treated as confidential. This interpretation is consistent with the intent of the Rail Act to rely on ordinary market mechanisms. Rail contracts, like most other contracts, should be the result of private negotiations and should not, without an exceptional showing of need, be made

available to the parties' competitors or the general public. Our rules provide that such a showing of need would have to demonstrate that the petitioner is likely to succeed on the merits of its complaint and that the matter complained of could not be proven without access to the complete contract.

In assessing which contract terms are "essential" and should be made available to the general public, we based our decision on the need or use which the public would have for the data. Going back to the grounds on which a contract can be challenged, we have tailored the special tariff rules to provide sufficient public information so that a party who has standing to challenge a contract will have sufficient information to determine whether there are grounds on which to base the challenge.

Thus, the special tariff rules for contracts specify a limited list of contract elements to be made public. Most types of contracts can be challenged only on the basis that the contract unduly impairs the railroad's ability to provide common carrier service to the shipper. We see this as being principally a question of car supply, particularly the supply of cars of the type to handle a specific shipper's commodity. The length of haul, and thus the turnaround time, affects the number of cars required to provide the contract service. Other "essential terms" are the names of the railroad(s) involved, the base rate, the duration of the contract, and any special features, such as transit privileges, service commitments, escalation clauses, annual volume requirements, etc. We think that specific origins and destinations need not generally be required since persons wishing to protest on the limited grounds available can base their protests on the information about rate, commodity, and distance that is required. Specific origins and destinations reveal information about specific contractor's marketing strategies that is proprietary. Requiring it to be revealed, would, when combined with the other requirements, reveal more proprietary data than is available under other tariffs, and would reduce the attractiveness of contracts in contravention of clear Congressional intent.

For most contracts, then, we will require this information to be available, but allow the remainder of the contract terms to remain confidential. In the general case, our special tariff rules require the railroads to file the following information, which will be available for public inspection:

(1) A short narrative summary of the terms described in items (2)-(8) below for inclusion on the cover page of the tariff.

(2) The names of the railroad(s) involved.

(3) The commodity or commodities involved.

(4) The duration of the contract.

(5) The mileage of the movement involved.

(6) The number of railroad-owned or leased cars, by major type, utilized in the contract.

(7) The base rate.

(8) Special features included in the contract; this identifies the existence of, but not the terms of, the special features.

Because a port has standing to challenge a contract on the grounds of "unreasonable discrimination," we have required that additional information be made public when the service covered by the contract involves a port. In order for a port to be able to determine whether it has suffered unreasonable discrimination, it must know which port is involved in the contract. With the port name and mileage of the movement identified, the port can determine whether it has grounds on which to challenge the contract. Thus, in contracts covering transportation to or from a port, we have required that, in addition to the general requirements above, the tariff must include identification of the port.

Contracts involving the transportation of agricultural commodities (including forest products or paper) can be challenged on the additional grounds of (1) "destructive competitive practice," and (2) "unreasonable discrimination" because the railroad has refused to enter into a similar contract with the challenging shipper. Thus, sufficient information to assess whether such violations have occurred must be available with respect to contracts involving agricultural commodities (including forest products and paper). We have, therefore, required, in addition to the general requirements above, that the tariff describing contracts for agricultural commodities include identification of the origin station and the destination station. This information will not only allow a shipper to assess whether unreasonable discrimination, as defined in § 10713, has occurred, but also, when combined with information about the base rate, would allow a potential complainant to assess whether the contract is a "destructive competitive practice." Our regulations define agricultural commodities as unmanufactured agricultural products. We think this is appropriate given Congress' explicit inclusion of "paper,"

as well as "forest products," reflecting their belief that manufactured by-products would not normally be included in definitions of primary commodities.

Finally, to facilitate the filing of and public access to contract tariffs, we have specified a contract tariff identification numbering system that will identify the fact that the tariff is a contract tariff, will identify the issuing railroad, and will assign a sequential number to each railroad's contract filings.

We invite comments on the approach we have taken and particularly on the limited information we propose to make available for public inspection in the contract tariffs. In the interim, we adopt the interim rules.

Exemptions

We have considered the necessity of exempting (pursuant to the terms of section 10505 of Interstate Commerce Act, as amended by section 213 of the Rail Act) contracts from certain provisions of the Interstate Commerce Act (e.g., minimum and maximum regulation provisions, the long and short haul provision, and others). We have concluded, however, that such exemptions are unnecessary. Section 208(c) of the Rail Act states: "A contract filed under this section shall be approved by the Commission, as provided in subsection (e) * * * unless the Commission determines * * * that such contract is in violation of *this section*" (emphasis supplied). We believe that Congress has thus made it quite clear that contracts may be challenged *only* on the limited grounds set out in section 208 and discussed above, and, therefore, that exempting contracts from other regulatory requirements is unnecessary. If challenges to contracts are brought on grounds other than those set out in section 208, we will dismiss them summarily. Exemptions from procedural provisions of the Interstate Commerce Act (such as notice) are similarly unnecessary. The terms of section 208, not the other provisions of the Interstate Commerce Act that normally govern such matters, will govern our procedural handling of contracts.

Status of Contracts

The language of the Rail Act clearly states that contracts are a separate and distinct class of service differentiating contract transportation from common carriage. Equipment utilized in contract services cannot be subjected to Commission car service orders and the Commission can require a railroad to violate the terms of a contract only

under the Commission's special powers in time of war. Our interim rules, reflect these statutory provisions.

Enforcement of the terms of the contract, once effective, is under the jurisdiction of the courts and not the Commission, unless the parties otherwise agree in the contract. Our rules reflect this provision.

Limitations on Future Contracts

Section 10713(f) provides that the Commission may limit the right of a rail carrier to enter into future contracts if it determines that additional contracts would impair the carrier's ability to fulfill its common carrier obligations. Our interim rules permit a shipper who can demonstrate individual harm to himself resulting from the aggregate effects of existing contracts to petition the Commission to make such a determination. We invite comments on the standards and measures we should incorporate in this determination. In the interim, we adopt the interim rule, realizing that it is highly unlikely that such a situation could develop during the short period of time before final rules are adopted.

Limitations on Equipment in Agricultural Contracts

Section 10713(k) limits to 40 percent of the capacity of a railroad's owned or leased equipment by major car type, the quantity of equipment that can be utilized in contracts covering transportation of agricultural commodities. This provision further limits contracts covering agricultural commodities by providing that in the case of a contract between a railroad and large agricultural shipper, not more than 40 percent of the carrier owned or leased equipment used by that shipper, on average, during the previous three years can be used for that contract, without prior Commission approval. The statute permits the Commission to grant relief from these limitations if it appears that utilizing additional equipment in contracts will not impair the railroad's common carrier responsibility. We have incorporated these provisions into the interim rules. We invite comments on the standards and criteria we should employ in making these determinations.

Conclusion

It does not appear that this decision will significantly affect the quality of the human environment, or the conservation of energy resources. Comments on this subject are, however, invited.

The rules contained in Appendix A replace existing rules 1039.1-1039.4.

Decided: October 23, 1980.

(49 U.S.C. 10321, 10713, 5 U.S.C. 553)

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp dissenting with a separate expression.

Agatha L. Mergenovich
Secretary.

Commissioner Clapp, dissenting:

In the Staggers Rail Act of 1980, Congress recognized that the ability to contract for transportation service is a necessary, important aspect of the railroad revitalization effort. After extensive hearings, it expressed a clear intent to permit the railroads to move toward a greater mixture of common and contract carriage. At the same time, however, it chose not to destroy the common carrier obligation. The final version of Section 208 balances the public interests involved and provides injured shippers and ports carefully drawn and narrow remedies under limited circumstances. Only the Commission can provide these remedies. If we do not act within 60 days the contract is deemed approved and cannot be challenged by a third party. Thus, potentially injured parties must have sufficient information to allow a decision whether or not to challenge a particular contract. The majority's decision seems designed to ensure that the needed information will not be obtainable in the apparent belief that this will discourage protests. Contracting shippers will not be identified. There will be no way for the public or the Commission to discover the number of cars used during the prior 3 years to permit identification and any needed remedy for a transaction within the purview of 49 U.S.C. § 10713(k). Other information that might indicate the presence or absence of prohibited unreasonable discrimination may not be publicly available. Rather than discouraging unfounded protests, the result may be a dramatic increase in litigation as shippers will be encouraged to protest each and every contract in which they might possibly have any interest. This may not occur, however, since the Commission has proposed no effective way of publicizing contract tariff filings.

Incredibly, proposed § 1300.310 provides that the Commission will not permit access to the contract unless a petition demonstrating a likelihood of success on the merits of a protest is filed and the protested matter could not be proven without access to the complete contract. This is the quintessential Catch-22 for at least two reasons. First, the time frames for filing, protest, and Commission decision are so short as to

make any discovery effort impractical. Secondly, how can any party show a likelihood of succeeding without knowledge of all pertinent information? The majority seems to be saying that it will look at any information submitted in a protest, compare that with other secret material in the contract, and determine the likelihood of success on that basis. I believe that this approach would be unlawful and contrary to principles of fundamental fairness. What is needed is a full summary of the contract that excludes only truly confidential information.

I am most disturbed by the majority's decision to implement the proposed rules on an interim basis without opportunity for notice and comment. While one hopes that no significant problems would occur in the near future, this Commission has no way to predict what will actually happen. If we (or a court) ultimately decide that the proposed rules are unlawful or unwise there will be no redress for those who are injured in the interim. I believe that we should limit our interim rules to a literal reading of the statute and essential procedural implementation, and consider any requests for confidentiality (which could be made prior to filing a contract) on a case by case basis until we have had the benefit of public comments.

Appendix A

Interim Rules

Part 1039 of Title 49 CFR is amended as follows:

1. The part heading and table of contents of Part 1039 is revised as follows:

PART 1039—CONTRACTS

- 1039.1 Definition.
- 1039.2 [Reserved].
- 1039.3 Filing and approval.
- 1039.4 Common carrier responsibility.
- 1039.5 Enforcement.
- 1039.6 Limitation on agricultural equipment; and relief.

* * * * *

2. §§ 1039.1-1039.4 are replaced by §§ 1039.1-1039.6 below:

§ 1039.1 Definition.

A contract is an agreement entered into by one or more rail carriers with one or more purchasers of rail service to provide specified services under specified rates and conditions.

§ 1039.2 [Reserved]

§ 1039.3 Filing and approval.

(a) Rail carriers providing transportation subject to Subchapter I of Chapter 105 of Title 49, United States

Code, shall file with the Commission an original and one copy of all contracts entered into with one or more purchasers of rail services. These contracts shall be accompanied by a contract tariff that contains a summary of the nonconfidential elements of the contract in the format specified in 49 CFR 1300.300-1300.315.

(b) *Grounds for review of contract.* Within 30 days of the filing date of a contract, the Commission may, on its own motion or on complaint, begin a proceeding to review it. Such review can be based only on allegation of violations as described in subsection (c) below.

(c) *Grounds for complaints.* A contract may be reviewed by the Commission on its own motion, or upon complaint, only on the following grounds:

(1) In the case of a contract other than a contract for the transportation of agricultural commodities (including forest products and paper):

(i) A shipper can file a complaint only on the grounds that the shipper individually will be harmed because the contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations under 49 U.S.C. 11101 to the shipper; or

(ii) A port can file a complaint only on the grounds that the port will be harmed because the proposed contract will result in unreasonable discrimination against the port.

(2) In the case of a contract for the transportation of agricultural commodities (including forest products and paper), a shipper can file a complaint only on the grounds that the shipper individually will be harmed because:

(i) The contract unduly impairs the ability of the contracting carrier(s) to meet their common carrier obligations under 49 U.S.C. 11101 to the shipper;

(ii) The rail carrier(s) unreasonably discriminated by refusing to enter into a contract with the shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue and the shipper was ready, willing and able to enter into such a contract at a time essentially contemporaneous with the period such contract was offered; or

(iii) The contract constitutes a destructive competitive practice.

(d) *Filing and Service of Complaints.*

(1) A complaint shall be filed with the Commission by the 18th day after the filing date of the contract.

(2) An original and 2 copies of the complaint shall be filed with the Commission.

(3) A copy of the complaint shall be served on each railroad listed as a railroad participating in the contract.

(e) *Commission decision upon review of contract.* Within 30 days after the date a proceeding is commenced to review a contract upon the grounds specified in subsection (c), the Commission shall decide whether the contract violates the provisions of 49 U.S.C. 10713. If the Commission finds that the contract violates the provisions of 49 U.S.C. 10713, it will:

(1) Disapprove the contract; or

(2) In the case of agricultural contracts where the Commission finds unreasonable discrimination by a carrier in accordance with subsection (c)(2)(B), order the carrier to provide rates and services substantially similar to the contract at issue with such differences in terms and conditions as are justified by the evidence.

(f) *Approval date of contract.* A contract shall be approved:

(1) On the 30th day after the filing date of a contract, if the Commission does not institute a proceeding to review the contract. Such contract shall be considered "expressly approved" by the Commission.

(2) If the Commission institutes a proceeding to review a contract:

(i) On the date the ICC approves the contract if the date of approval is 30 or more days after the filing date of the contract;

(ii) On the 30th day after the filing date of the contract if the ICC approves the contract prior to the 30th day after the filing date of the contract; or

(iii) On the 60th day after the filing date of a contract, if the Commission fails to disapprove the contract.

(g) *Limitation of rights of a rail carrier to enter future contracts.* The Commission may limit the right of a rail carrier to enter into future contracts if it determines that additional contracts would impair the ability of the rail carrier to fulfill its common carrier obligations under 49 U.S.C. 11101. The Commission will handle such determinations on a case-by-case basis and may investigate either on its own initiative or upon the filing of a verified complaint by a shipper which demonstrates that it individually had been harmed by a carrier's inability to fulfill its common carrier obligations as a result of existing contracts.

§ 1039.4 Common carrier responsibility.

(a) The terms of a contract approved by the Commission determine completely the duties and service

obligations of the parties to the contract with respect to the services provided under the contract. The contract does not affect the parties' responsibilities for any services which are not included in the contract.

(b) Service under a contract approved by the Commission is deemed a separate and distinct class of service and the equipment used to fulfill the contract shall not be subject to car service decisions under 49 USC 11123.

§ 1039.5 Enforcement.

(a) The exclusive remedy for an alleged breach of a contract approved by the Commission shall be an action in an appropriate State Court or United States District Court, unless the parties otherwise agree in the contract.

(b) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under § 1039.3(e), except to the extent necessary to comply with section 11128 of Title 49 of the United States Code.

§ 1039.6 Limitation on agricultural equipment; and relief.

(a) A rail carrier may enter into contracts for the transportation of agricultural commodities (including forest products and paper) that involve the use of carrier owned or leased equipment not in excess of 40 percent of the total number of the carrier's owned or leased equipment, by major car type, except as provided in (b) below.

(b) In the case of a proposed contract between a class I carrier and a shipper originating an average of 1,000 cars or more per year during the prior 3-year period by major car type on a particular carrier, not more than 40 percent of carrier owned or leased equipment used on the average during the prior 3-year period may be used for such contract without prior authorization by the Commission.

(c) The Commission may grant relief from the limitations of subparagraphs (a) and (b) of this section if:

(1) A rail carrier or other party requests such relief; or

(2) The Commission on its own initiative considers granting such relief, and

(3) The Commission determines that making additional equipment available does not appear to impair the rail carrier's ability to meet its common carrier obligations under 49 U.S.C. 11101.

§ 1039.10 [remains unchanged]

PART 1300—FREIGHT TARIFFS; RAILROADS, WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY THEREWITH

2. Part 1300 of Title 49 of the Code of Federal Regulations is amended by adding the following sections:

- * * * * *
- 1300.300 Special tariff rules for contracts entered into by one or more rail carriers with one or more purchasers of rail service—General provisions: Definitions.
- 1300.310 Filing of contract and contract tariff.
- 1300.311 Contract tariff title page.
- 1300.312 Contract tariff numbering system.
- 1300.313 Content of contract tariff.
- 1300.314 Availability of summary.
- 1300.315 Statutory notice.

§ 1300.300 Special tariff rules for contracts entered into by one or more rail carriers with one or more purchasers of rail service—General provisions: Definitions.

(a) This section, and the ensuing sections, numbered between 1300.300 and 1300.399, govern the filing of contracts for railroad transportation services entered into by one or more rail carriers with one or more purchasers of rail service.

(b) Contracts for railroad transportation services and contract tariffs must be filed with the Commission in accordance with the Special Tariff Rules for Contracts prescribed in these sections.

(c) "Agricultural commodities", as used in these rules, means unmanufactured agricultural products, and includes forest products and paper.

(d) "Unreasonable discrimination, as used in these rules, means, when applied to agricultural shippers, that the railroad has refused to enter into a contract with the shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that the shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; and, when applied to a port, has the same meaning as the term has under section 10741 of Title 49 of the United States Code, and as fully discussed in Docket No. 36625, *H. Samuels Co. Inc. v. The Atchison, Topeka and Santa Fe R.R. Co., et al.*, decided October 10, 1980.

(e) All contract tariffs and supplements must conform with the Commission's general requirements for form, size, and arrangement; these requirements are found at §§ 1300.1 (as to tariffs) and 1300.9 (as to

supplements), of this part. The contract itself is not subject to the requirements of § 1300.1, but must be clear, legible, and on durable paper and must be signed by the parties executing the contract.

§ 1300.310 Filing of contract and contract tariff.

(a) A railroad entering into a contract for railroad transportation services (or the originating railroad for a contract involving movement over more than one railroad) with one or more purchasers of rail service must file with the Commission the original and one copy of the contract and two copies of the contract tariff.

(b) The contract filed under these rules will not be available for inspection by persons other than the parties to the contract and authorized Commission personnel, except by petition demonstrating that petitioner is likely to succeed on the merits of its complaint and that the matter complained of could not be proven without access to the complete contract.

(c) The contract tariff filed under these rules shall include the information specified in § 1300.313 of this part. The contract tariff will be made available for inspection by the general public.

(d) The contract tariff filed under these rules shall not be required to be posted in any stations.

§ 1300.311 Contract tariff title page.

The title page of every contract tariff and of every supplement shall show the following in the order named:

(a) In the upper right-hand corner, the contract tariff identification number, as specified in section 1300.312 of this part.

(b) The corporate name of the issuing carrier and, listed alphabetically, the corporate names of any other rail carriers participating in the contract tariff.

(c) The words "Contract Tariff."

(d) Whether the contract tariff includes a through movement over more than one railroad and whether the contract tariff covers transportation to or from a port.

(e) Commodity or Commodities to be transported under the terms of the contract.

(f) Date of issue and date effective.

(g) Duration of the contract.

(h) At the bottom of the page, the name, title, and mailing address of the individual responsible for compiling and filing the contract tariff.

§ 1300.312 Contract tariff numbering system.

Each issuing carrier shall sequentially number the contract tariffs it issues.

These sequential numbers shall be included in the contract tariff identification number printed on the Contract Tariff Title Page and on the first page of the contract itself. The contract tariff identification number shall include the word "ICC", the industry standard alphabet code for the issuing railroad (limited to four letters), the letter "C", and the sequential number, with each separated by a hyphen, as illustrated in the following example: the 357th contract filed by the Milwaukee Road would have the following contract tariff identification number: "ICC-MILW-C-0357."

§ 1300.313 Content of contract tariff.

Contract tariffs shall contain in the order named:

(a) A short narrative summary of the nonconfidential, essential terms of the contract. The items described in the following subsections (1300.313(b)-(j)) are nonconfidential terms. The narrative summary is not required to include contract terms not required by subsections 1300.313 (b)-(j).

(b) Name(s) of participating carrier(s). A list, alphabetically arranged, of the corporate names of all carriers that are parties to the contract.

(c) The commodity or commodities to be transported under the contract.

(d) If the commodity identified in (c) above is an agricultural commodity (including forest products and paper), the origin station(s) and the destination station(s); otherwise, the words, "Origin/Destruction Stations—Not Applicable."

(e) If the contract covers transportation to or from a port, the name of the port; otherwise, the words, "Port Name—Not Applicable."

(f) The duration of the contract.

(g) The mileage of the movement covered by the contract, or, in the event the contract covers multiple movements or routings, the mileages of each of the routings; mileage shall be rounded to the nearest 50 miles.

(h) The number of cars, by major car type, owned or leased by the carrier(s) listed in (b) above, used in providing the transportation covered by the contract or by options to the contract. Also, the maximum number of cars to be used during any single (peak) month must be specified. In addition, if the commodity identified in sub-section (c) above is an agricultural commodity (including forest products and paper) then the participating rail carrier(s) shall certify:

(1) that the equipment used does not exceed 40 percent of the capacity of the rail carrier's owned or leased cars by major car type, and

(2) in the case of an agricultural shipper who originated an average of 1,000 cars or more per year during the prior 3-year period by major car type, that the equipment used does not exceed 40 percent of the rail carrier's owned or leased cars used on the average by that shipper during the previous 3 years.

(i) The base rate for the services provided, presented in the same units (tons, hundredweight, ton-mile, carload, trainload, etc.) as used in the contract. (If the contract utilizes existing tariff rates, appropriate tariff reference will be sufficient).

(j) Special features included in the contract. This item shall identify the existence of, but not the terms of, special features such as, but not limited to, rate escalation clauses, transit privileges, services or transit time commitments, guaranteed car supply, annual volume requirements, minimum percentage of traffic requirements, etc.

If the commodity is identified as agricultural, the details of the escalation clause (if any) shall be provided.

The summaries shall include Commission tabulations of the percentage of cars under lease by major type for each participating carrier.

§ 1300.314 Availability of summary.

Copies of contract summaries shall be available from the Commission's Contract Advisory Service (202) 275-0831 and Bureau of Traffic (202) 275-7739.

§ 1300.315 Statutory notice.

All contracts and contract tariffs shall be filed with the Commission at least 30 days, and not more than 60 days, before the date on which they are to become effective, except as otherwise authorized by the Commission.

[FR Doc. 80-34498 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations—Permits, etc.; Correction

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

ACTION: Final decision and final rule; correction.

SUMMARY: This document corrects a final rule document relating to the taking

of marine mammals incidental to commercial fishing operations published at 45 FR 72178, October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235. Telephone: 202-634-7287. Office Location: Room 410, Page Building 2, 3300 Whitehaven Street, NW., Washington, D.C.

In FR Doc 80-33529, published at 45 FR 72178, October 31, 1980, certain information in the "DATES" caption appearing in the preamble was incorrect. After the "DATES" caption, the first sentence should read as follows: "DATES: The decision and revised § 216.24 become final December 1, 1980 and become effective January 1, 1981. * * *"

Dated: November 3, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

FR Doc 80-34649 Filed 11-4-80; 8:45 am]

BILLING CODE 3510-12-M

50 CFR Parts 611 and 672

Groundfish of the Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Final regulations.

SUMMARY: These regulations implement all but one subpart of amendment #8 (amendment) to the Fishery Management Plan for the Gulf of Alaska (FMP).

The amendment to the FMP:

- (1) Changes the fishery year to a calendar year and eliminates any predetermined plan expiration date;
- (2) Establishes Gulf-wide optimum yields (OYs) for squid; thornyhead rockfish, other rockfish, and other species;
- (3) Defines four categories of species: "unallocated", "target", "other", and "nonspecified" species;
- (4) Divides the Eastern Regulatory Area of the Gulf of Alaska into three regulatory districts for the purpose of sablefish fishing;
- (5) Changes the reserve release procedures to improve flexibility and to allow more reserves to be released earlier in the season; and
- (6) Requires that all sablefish pots be equipped with biodegradable escape panels.

All regulations governing domestic and foreign fishing for groundfish are contained in 50 CFR Parts 672 & 611 and are being repromulgated to incorporate these changes.

EFFECTIVE DATE: November 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Telephone (907) 586-7221.

SUPPLEMENTARY INFORMATION:

Background

On April 21, 1978, the Assistant Administrator for Fisheries, NOAA, (Assistant Administrator), approved the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP), which was prepared by the North Pacific Fishery Management Council pursuant to the Fishery Conservation and Management Act of 1976, as amended (the FCMA). The FMP was published on April 21, 1978, (43 FR 17242). Since that time, the Assistant Administrator has approved eight amendments to the FMP: 43 FR 34825; 43 FR 47222; 43 FR 46349; 44 FR 40099; 44 FR 42738; 44 FR 46904; 44 FR 64410; and 45 FR 59914. Looseleaf copies of the FMP, as amended, may be obtained upon request from the North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510, telephone (907) 274-4563.

Amendment #8 consisted of 7 subparts, 6 of which are implemented by these final regulations, and one which is still undergoing Secretarial review. The amendment, notice of proposed rulemaking, and request for comments were published in the *Federal Register* on September 11, 1980 (45 FR 59114).

Public Comments

Two letters were received commenting on the proposed regulations. A summary of these comments and NOAA's response appear below.

Commenters suggested that:

1. The reserve release procedure should be amended so that the reserve releases (and apportionment from domestic annual harvest (DAH) to the total allowable level of foreign fishing (TALFF)) occur about a month earlier in order to facilitate operational planning of foreign fishing;
2. The sablefish TALFF in the Southeast Outside District is too small to allow attainment of OY of other species in that district;
3. Sufficient time be allowed to record all catches of unallocated species;
4. The reserve for sablefish in the Yakutat District of the Eastern

Regulatory Area is excessive; the amount should be 680 mt, with the balance of 740 mt being assigned to the Southeast Outside District; and

5. The quantity of sablefish being withheld in reserve together with the sablefish in DAH in the Yakutat District may prevent full utilization of that resource.

Responses to comments

The following responses are keyed to the five points made in the comments received:

1. The reserve release is timed to balance two factors. One factor is the time remaining in the season—so that any increase in TALFF can be effectively utilized by foreign fishermen. The opposing factor is the uncertainty concerning domestic requirements. The new regulations allow for a 5-month period between the last reserve release and the end of the fishing year; the previous regulations allowed for only a 4-month period. There is a further advantage to foreign fishermen in this new system. Since only three reserve releases are scheduled, the quantities released will be larger. Thus, the net result of these amendments will be more fish, sooner, at no disadvantage to U.S. fishermen.

2. The sablefish TALFF in the Southeastern Outside District may limit the amount of other groundfish taken in the Southeastern Outside District but will not preclude foreign fishermen from taking their full allocations. If a country catches its sablefish allocation in any of the enumerated districts then that district, but not the entire regulatory area is closed to all fishing by vessels of that country.

3. NOAA agrees that recording catches of some unallocated species is burdensome. These regulations do not require that records be kept of unallocated species, except incidental catches of salmon and halibut (see § 611.94(d)(4)).

4. The Council established districts within the Eastern Regulatory Area. The sablefish OY has been apportioned to these districts in order to provide better management of localized stocks. These districts are: Southeast Outside, Yakutat, and Southeast Inside. There is no TALFF for the Southeast Inside District because it is wholly within territorial waters.

For the 1980 fishing year the FMP established reserves in each regulatory area for thornyhead rockfish, which has a Gulf-wide OY. These reserves were equal to 20 percent of the OY's in each area.

The Council did not change the 1,420 mt sablefish reserve (twelve month

basis) for the Eastern Regulatory Area in 1981. All the sablefish OY, except 90 mt in the Southeast Outside District, is designated as DAH. The 90 mt exception is designated as TALFF in order to provide for a sablefish by-catch in the foreign trawl fishery in that district. The entire sablefish reserve in the Eastern Regulatory Area occurs in the Yakutat District.

5. The FMP provides mechanisms for apportioning reserves and DAH amounts to TALFF if they are not needed by U.S. fishermen. These mechanisms provide the opportunity to fully utilize fishery resources.

Modifications from proposed regulations

In addition to changing the final regulations to clarify the recording of unallocated species and to clarify closure provisions as related to districts, several technical changes to the proposed regulations were made, as follows:

1. § 611.92(a)(3) has been revised to indicate that TALFF's, reserves, and other specifications continue in force past December 31, 1981, on a pro rata calendar year basis, unless amended.

2. Timing of the notifications of the opening and closing dates of the halibut season has been made consistent so that a 7-day notification is given.

3. Several "November 1" dates have been changed to "December 31" to reflect the change in the fishing year.

4. Thornyhead rockfish has been added to the species specified in the foreign fisheries annual report—Section 611.92(g)(1)(ii).

5. Figures 1 and 2 have been combined into one figure and the reference in Appendix 1 to section 611.20 changed appropriately.

6. The regulations have been published in their entirety to facilitate their use.

7. Technical, typographical and grammatical corrections have been made, as necessary.

FMP Approval

The Assistant Administrator for Fisheries, NOAA, has reviewed the comments received on Amendment #8 to the FMP and finds that the amendment conforms to the national standards, other provisions of the Act, and other applicable law.

Environmental Impact

The Assistant Administrator has determined that promulgation of the amendment and the implementation of these regulations does not constitute a major Federal action requiring the preparation of an environmental impact

statement under provisions of the National Environmental Policy Act of 1969.

Executive Order 12044

Implementation of these regulations is not deemed a significant regulatory action under provisions of NOAA Directives Manual, Chapters 21–24, which implements Executive Order 12044 (Improving Government Regulations). Consequently, a regulatory analysis was not prepared.

Administrative Procedures Act

The Assistant Administrator has determined that the 30-day "cooling off" period required under the Administrative Procedures Act should be waived so that these regulations may become effective on November 1, 1980. A delay in implementation would result in a regulatory hiatus adversely affecting both joint ventures and foreign fishing.

Signed at Washington, D.C. this 31st day of October, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

1. 50 CFR Part 672 is revised to read as follows:

PART 672—GROUND FISH OF THE GULF OF ALASKA

Subpart A—General

Sec.

- 672.1 Purpose and scope.
- 672.2 Definitions.
- 672.3 Relation to other laws.
- 672.4 Permits.
- 672.5 Reporting requirements.
- 672.6 [Reserved].
- 672.7 General prohibitions.
- 672.8 Enforcement.
- 672.9 Penalties.

Subpart B—Management Measures

- 672.20 General limitations.
- 672.21 [Reserved].
- 672.22 Time and area closures.
- 672.23 [Reserved].
- 672.24 Gear limitations.
- 672.25 [Reserved].
- 672.26 [Reserved].
- 672.27 Observers.

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

Subpart A—General

§ 672.1 Purpose and scope.

(a) Regulations in this part govern fishing for groundfish by vessels of the United States within that portion of the Gulf of Alaska over which the United States exercises exclusive fishery management authority.

(b) For regulations governing fishing in the Gulf of Alaska groundfish fishery

by fishing vessels other than vessels of the United States, see 50 CFR 611.91.

(c) These regulations implement the Gulf of Alaska groundfish fishery management plan developed by the North Pacific Fishery Management Council.

§ 672.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this part shall have the following meanings (some definitions in the Act have been repeated here to aid understanding of the regulations):

Act means the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801-1882, as amended.

ADF&G means the Alaska Department of Fish and Game.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, or an individual to whom appropriate authority has been delegated.

Authorized officer means: (1) Any commissioned, warrant, or petty officer of the Coast Guard;

(2) Any certified enforcement or special agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal states to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described in subparagraphs (1), (2), or (3) above.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (1) fishing, or (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Groundfish means pollock, cod, any species of flounder and sole, Pacific ocean perch, thornyhead rockfish, other rockfish, sable fish, Atka mackerel, squid, and other finfish, except salmon, steelhead trout, and Pacific halibut. The scientific names of these species are as follows:

Pollock means *Theragra chalcogrammus*.

Cod means *Gadus macrocephalus*.

Arrowtooth flounder means *Atheresthes stomias*.

Other flounder means *Pleuronectiformes* (order) not specifically defined.

Rock sole means *Lepidopsetta bilineata*.

Flathead sole means *Hippoglossoides elassodon*.

Pacific ocean perch means *Sebastes alutus*.

Atka mackerel means *Pleurogrammus monopterygius*.

Sablefish means *Anoplopoma fimbria*.

Squid means *sepioid* and *teuthoid* squid.

Salmon means of the family *Salmonidae*.

Pacific halibut means *Hippoglossus styenolepis*.

Steelhead trout means *Salmo gairdneri*.

Rattail means *Coryphaenoides* not specifically defined.

Thornyhead rockfish, not specifically defined, means rockfish of the genus *Sebastes*.

Other rockfish means all fish of the genus *Sebastes* except Pacific ocean perch and *S. polyspinus*, *S. aleutianus*, *S. borealis*, and *S. zacentrus*.

Gulf of Alaska means that portion of the fishery conservation zone in the North Pacific Ocean exclusive of the Bering Sea, between 132°40' W. longitude and 170°00' W. longitude seaward of the State of Alaska.

Landing means off-loading fish.

Longline means a stationary, buoyed, and anchored line with hooks or pots attached, or the taking of fish by means of such a device.

Off-bottom trawl means a trawl in which the otter boards may be in contact with the seabed but the ground rope of the net remains above the seabed.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(1) Any person who owns that vessel in whole or in part;

(2) Any charterer of the vessel, whether bareboat, time, or voyage;

(3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(4) Any agent designated as such by any person in subparagraph (1), (2), or (3).

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, or an individual to whom appropriate authority has been delegated.

Regulatory area means any of three areas of the FCZ of the Gulf of Alaska seaward of the State of Alaska. The three regulatory areas are described as follows:

Area and Location

Eastern, between 132°40' and 147°00' W. longitude. Central, between 147°00' and 159°00' W. longitude. Western, between 159°00' and 170°00' W. longitude.

Regulatory district means any of three districts of the Eastern regulatory area as follows: Southeast Outside district: All waters of the FCZ east of 137°00' West longitude. Southeast Inside district: All waters of the territorial sea (within three miles) east of 137°00' West longitude and north of 54°30' North latitude. Yakutat district: All other portions of the Eastern regulatory area.

Vessel of the United States means: (1) A vessel documented or numbered by the Coast Guard under U.S. law; or

(2) A vessel, under 5 net tons, which is registered under the laws of any State.

§ 672.3 Relation to other laws.

(a) *Federal law.* For other regulations concerning the conservation of halibut see the regulations of the International Pacific Halibut Commission, or any regulations implementing any halibut fishery management plan approved under the Act. For other regulations

concerning fishing for Tanner crab and salmon see 50 CFR Part 671 and 50 CFR 674 respectively.

(b) *State law.* Certain data collection and enforcement activities under this part will be performed by personnel of the State of Alaska under the terms of an agreement with NOAA/NMFS and the U.S. Coast Guard.

(c) *Delegation.* The Assistant Administrator has delegated to the Regional Director authority to take actions pursuant to § 672.22 of this Part, and to apportion reserves pursuant to § 672.20(c) of this Part.

§ 672.4 Permits.

(a) *General.* No vessel of the United States may fish for groundfish in the Gulf of Alaska without first obtaining a permit issued under this Part. Permits shall be issued without charge.

(b) *Application.* An applicant may obtain a permit by submitting to the Regional Director a written request containing the following information:

- (1) The applicant's name, mailing address, and telephone number;
- (2) The name of the vessel;
- (3) The vessel's U.S. Coast Guard documentation number or State registration number;
- (4) The home port of the vessel;
- (5) The type of fishing gear to be used; and
- (6) The signature of the applicant.

(c) *Issuance.* (1) Upon receipt of a properly completed application, the Regional Director shall issue a permit.

(2) Upon receipt of an incomplete or improperly completed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 10 days following the date of notification, the application shall be considered abandoned.

(d) *Notification of change.* Any person who has applied for and received a permit under this section shall give written notification of any change in the information provided under paragraph (b) of this section to the Regional Director within 30 days of the date of that change.

(e) *Duration.* A permit shall continue in full force and effect for one year or, until it is revoked, suspended, or modified pursuant to 50 CFR Part 621 (Civil procedures).

(f) *Alteration.* No person shall alter, erase, or mutilate any permit. Any permit that has been intentionally altered, erased, or mutilated shall be invalid.

(g) *Transfer.* Permits issued under this part are not transferable or assignable.

A permit shall be valid only for the vessel for which it is issued.

(h) *Inspection.* Any permit issued under this Part must be carried aboard the vessel whenever the vessel is fishing for groundfish. The permit shall be presented for inspection upon request of any authorized officer.

(i) *Sanctions.* Subpart D of 50 CFR 621 (Civil procedures) shall govern the imposition of permit sanctions against a permit issued under this part. As specified in that subpart D, a permit may be revoked, modified, or suspended if the permitted vessel is used in the commission of an offense prohibited by the Act or these regulations; or if a civil penalty or criminal fine imposed under the Act and pertaining to a permitted vessel is not paid.

§ 672.5 Reporting requirements.

(a) *Fishing vessel reporting requirements—(1) Port of Landing in Alaska.* The operator of any fishing vessel regulated under this Part whose port of landing is in the State of Alaska shall, for each sale or delivery on land of groundfish caught in any Gulf of Alaska regulatory area, be responsible for the submission to ADF&G of an accurately completed State of Alaska fish ticket.

(i) At the election of the vessel operator, the fish ticket required under this paragraph (a)(1) shall be either:

(A) Submitted by the vessel operator directly to the ADF&G within one week after such fish are sold or delivered; or (B) prepared, at the request of the operator, by the purchaser and submitted by the purchaser to ADF&G within one week after such fish are received by the purchaser. For the purposes of this paragraph (a), a "purchaser" is any person who receives on land, from a fishing vessel regulated under this Part, groundfish caught in any Gulf of Alaska regulatory area.

(ii) In addition to the requirements of paragraph (a)(1) of this section, each operator (or purchaser, if the fish ticket is submitted in accordance with paragraph (a)(1)(i)(B) of this section) shall accurately state on each fish ticket:

- (A) The quantity and types of gear used;
- (B) The total time fished with each gear type; and
- (C) The total number of hauls for each gear.

(2) *Port of Landing Outside Alaska.* The operator of any fishing vessel regulated under this Part whose port of landing is outside the State of Alaska shall, for each sale or delivery of groundfish caught in any Gulf of Alaska regulatory area, submit a completed State of Alaska fish ticket, or an

equivalent document containing all of the information required on an Alaska fish ticket, together with the additional information required by paragraph (a)(1)(ii) of the section, to the ADF&G within one week after the date of each such sale or delivery. The address to which these documents must be sent is: Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, Subport Building, Juneau, Alaska 99801.

(b) *Processor and purchaser reporting requirements—(1) Any U.S. fish processor or purchaser (i.e., any person who receives fish for a commercial purpose from a fishing vessel subject to this Part), except: (i) Any fisherman purchasing fish for his own use as bait or (ii) any foreign fishing vessel permitted to receive U.S. harvested fish at sea, shall accurately complete each written survey authorized by this section and received by the processor or purchaser from the Regional Director.*

(2) Surveys shall be conducted at those times considered necessary by the Regional Director, but at least twice, and no more than four times, during the fishing year.

(3) Each survey shall be designed to gather the following information:

- (i) Changes in processing plant capacity;
- (ii) Changes in the availability of groundfish by species;
- (iii) Changes in market demand;
- (iv) Changes in expected utilization of processing capacity or expected purchases of groundfish species for the subsequent 12-month period; and
- (v) Changes in other factors which the purchaser or processor believes relevant to the accurate determination of the amounts of domestic annual processing (DAP) and domestic nonprocessed fish (DNP).

(4) Completed surveys shall be returned to the Regional Director at the address and by the date specified on the survey.

(c) *U.S. vessels delivering to foreign processing vessels.*

(1) The owner or operator of any fishing vessel regulated by this section who has delivered, or intends to deliver, groundfish caught in any Gulf of Alaska regulatory area to a foreign fishing vessel at sea shall accurately complete each written survey authorized by this section and received by the owner or operator from the Regional Director.

(2) Surveys shall be conducted at those times considered necessary by the Regional Director, but at least twice, and no more than four times during the fishing year.

(3) Each survey shall be designed to gather the following information:

(i) Changes in the number and capacity of U.S. vessels which harvest groundfish to be delivered to foreign fishing vessels at sea;

(ii) Changes in regulatory areas of operation;

(iii) Changes in capacity or operations of the foreign fishing vessel to which deliveries are being, or will be, made;

(iv) Changes in quantities and species of groundfish expected to be delivered in the subsequent 12-month period;

(v) Changes in alternative fishery opportunities available to the U.S. vessels; and

(vi) Changes in other factors the owner or operator believes relevant to the accurate determination of the amount of joint venture processing (JVP).

(4) Completed surveys shall be returned to the Regional Director at the address and by the date specified on the survey.

§ 672.6 [Reserved]

§ 672.7 General prohibitions.

It shall be unlawful for any person to:

(a) Fish for groundfish with a vessel of the United States which does not have aboard a valid permit issued pursuant to this Part;

(b) Possess, have custody or control of, ship, transport, import, export, offer for sale, sell, or purchase any fish taken or retained in violation of the Act, this part, or any other regulation or permit issued under the Act;

(c) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this Part, or any other regulation or permit issued under the Act;

(d) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any

search or inspection described in paragraph (c) of this section;

(e) Resist a lawful arrest for any act prohibited by this Part;

(f) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this Part;

(g) Forcibly assault, resist, impede, intimidate, or interfere with an observer placed aboard a fishing vessel pursuant to this Part;

(h) Violate any other provision of this Part, the Act, or any regulation or permit issued under the Act.

§ 672.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to these regulations shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the fishing vessel, its gear, equipment, and catch for purposes of enforcing the Act and this Part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc." which is the call to an unknown station.

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his party to come aboard;

(2) If requested, provide a safe ladder for the authorized officer and his party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line, and illumination for any ladder; and

(4) Take such other actions as necessary to insure the safety of the authorized officer and his party and to facilitate the boarding.

§ 672.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 672.20 Optimum yield.

(a) The specifications of optimum yield (OY), reserves, estimates of domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF) for species regulated under this Part are set forth in Table I. These specifications are effective from November 1, 1980 through December 31, 1981, unless amended. After December 31, 1981, the specifications shall continue on a calendar year basis at $1\frac{1}{4}$ of the levels specified for the period November 1, 1980 to December 31, 1981, unless amended. When the combined catch by foreign and United States vessels reaches the OY amount for a species or species category, further fishing for all species shall be prohibited in the applicable regulatory area or district for the remainder of the fishing year, except that fishing for sablefish by fishing vessels of the United States using longline gear shall not be prohibited unless the OY for sablefish in that fishing area or district has been reached.

Table I.—OY, DAH, DAP, DNP, JVP, Reserve, and TALFF by Regulatory Area¹

Species and species code	Areas	OY	DAH	DAP	JVP = (DAH - DAP)	DNP	Reserve	TALFF
Pollock—701	Western	66,500	6,737	29	6,708		13,300	46,463
	Central	111,066	15,540	6,277	9,263		22,213	73,313
	Eastern	19,367	2,584	811	1,773		3,874	12,909
	Total	196,933	24,861				39,387	132,685
Pacific Cod—702	Western	19,320	2,193	280	1,213	700	3,864	13,263
	Central	39,130	7,058	4,060	1,598	1,400	7,826	24,246
	Eastern	11,550	2,415	327	688	1,400	2,310	6,825
	Total	70,000	11,666				14,000	44,334
Flounders—129	Western	12,133	816	116	700		2,427	8,890
	Central	17,150	1,307	350	957		3,430	12,413
	Eastern	9,800	1,587	1,050	537		1,960	6,253
	Total	39,083	3,710				7,817	27,556

Species and species code	Areas	OY	DAH	DAP	JVP= (DAH-DAP)	DNP	Reserve	TALFF
Pacific Ocean Perch ² -780	Western	3,150	402	29	373		630	2,118
	Central	9,217	1,465	344	1,121		1,843	5,909
	Eastern	16,800	1,534	93	1,441		3,360	11,906
	Total	29,167	3,401				5,833	19,933
Other Rockfish ³ -849	Total	8,867	1,050				1,773	6,044
Sablefish-703	Western	2,450	315	117	198		490	1,645
	Central	4,433	1,423	1,167	256		887	2,123
	Yakutat District ⁴	3,966	1,610	1,377	233		1,656	700
	Southeast Outside ⁴	3,500	3,395	3,290	105		0	105
	Total	14,349	6,743				3,033	4,573
Atka mackerel-207	Western	5,458	338	0	338		1,092	4,028
	Central	24,309	1,260	0	1,260		4,862	18,187
	Eastern	3,717	817	0	817		743	2,157
	Total	33,484	2,415				6,697	24,372
Squid-509	Total	5,833	175				1,167	4,491
Other Species ⁵ -499	Total	18,900	2,007				3,780	13,113
Thornyhead rockfish-749	Total	4,375	7				875	3,493

¹ See 672.2 for a description of Regulatory Areas and Districts.
² The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
³ The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined above and "Thornyhead Rockfish," *Sebastolobus*.
⁴ Excludes values for the Southeast Inside District, which is not governed by these regulations.
⁵ The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

(b) *Field orders.* (1) If the Regional Director determines that the OY for any species in any regulatory area or district in Table I of paragraph (a) will be reached, he shall issue a field order pursuant to § 672.22(a) prohibiting fishing for all species in that fishing area, except that the Regional Director shall not prohibit, under this section, fishing for sablefish by fishing vessels using longline gear unless he determines that the OY for sablefish in that fishing area will be reached.

(2) Fishing for species of groundfish by vessels of the United States in the applicable regulatory area contrary to any field order issued under this paragraph is prohibited from the effective date of such field order except that fishing for sablefish with longline gear is not prohibited until the effective date of a field order prohibiting longline fishing for sablefish in that fishing area.

(c) *Apportionment of Reserves and Initial DAH.*—(1) *Apportionment of Reserves.* (i) As soon as practicable after the first day of the following months, and after consultation with the Council, the Regional Director may apportion to TALFF, in accordance with paragraph (c)(3) of this section, all or part of the following amounts of each reserve: April—40 percent; June—40 percent; August—20 percent.

(ii) As soon as practicable after the first day of the following months, and on such other dates as he determines necessary, the Regional Director may

apportion to DAH, in accordance with paragraph (c)(3) of this section, any amounts of any reserve that he determines to be needed to supplement DAH: April, June, and August.

(2) *Apportionment of Initial DAH.* As soon as practicable after the first day of August, the Regional Director shall apportion to TALFF that part of the DAH which he determines will not be harvested by United States fishermen during the remainder of the fishing year.

(3) *Standards and Procedure for Apportionment*—(i) *General.* The Regional Director shall apportion to TALFF under paragraphs (c)(1) and (c)(2) of this section only those amounts which he determines will not be harvested by vessels of the United States during the remainder of the fishing year. The amount of reserve which the Regional Director determines will be harvested by vessels of the United States may, in the discretion of the Regional Director, either be apportioned to the estimate of domestic annual harvest (DAH), or retained in the reserve as eligible for later apportionment under paragraph (c) of this section.

(ii) *Factors.* In determining whether or not amounts proposed to be apportioned under paragraphs (c)(1) and (c)(2) of this section will be harvested by vessels of the United States during the remainder of the fishing year, the Regional Director shall consider the following factors, although he shall not be limited to these

factors:

(A) Reported United States catch and effort by species and area compared to previously projected United States harvesting capacity;

(B) Projected United States catch and effort by species and area for the remainder of the fishing year;

(C) Amounts of fish, particularly United States harvested fish, already purchased or processed by United States fish processors during the fishing year, compared to previously projected processing capacity of United States fish processors;

(D) Projected processing capacity, and utilization of that capacity for the processing of United States harvested fish, by United States fish processors for the remainder of the fishing year;

(E) Amounts of United States harvested fish already received or processed by foreign fishing vessels, compared to previously projected levels of such receipt or processing; and

(F) The need to maintain orderly fisheries despite any misspecifications of by-catch species amounts in mixed species fisheries.

(iii) *Allocation of Increases and Decreases in DAH Among DAP, JVP, and DNP.* The Regional Director shall allocate any increases or decreases in DAH amounts resulting from apportionments under paragraphs (c)(1) and (c)(2) of this section among the three components of DAH: The estimates of domestic annual processing (DAP); joint

venture processing (JVP); and domestic non-processed fish (DNP).

(iv) *Public comment.* (A) Comments may be submitted to the Regional Director concerning:

(1) Whether, and the extent to which, vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year; and

(2) Whether, and the extent to which, United States harvested groundfish can or will be processed by United States fish processors or received at sea by foreign fishing vessels.

(3) Comments should be addressed to Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, and must be received by the Regional Director no later than 15 days before the relevant date specified in paragraph (c)(1) or (c)(2) of this section. When the Regional Director determines that apportionment is required on dates other than those specified in paragraph (c)(1) of this section, he shall issue a **Federal Register** notice on the proposed apportionment which shall state the period during which comments may be submitted.

(B) The Regional Director shall consider any timely comments submitted in accordance with this paragraph in determining whether, and to what extent, vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (c)(1) and (c)(2) of this section.

(C) The Regional Director shall compile, in aggregate form, the most recent available reports on (1) level of catch and effort by vessels of the United States fishing for groundfish in the Gulf of Alaska; and (2) amounts of United States harvested groundfish taken in the Gulf of Alaska and processed by United States fish processors or delivered at sea to foreign fishing vessels. These data shall be available for public inspection during business hours (8:00 a.m.—4:30 p.m., Monday-Friday) at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 25 days of each comment period.

(v) *Procedure.* As soon as practicable after each of the dates specified in, and each additional date selected under paragraph (c)(1) or (c)(2) of this section, the Regional Director shall publish in the **Federal Register**:

(A) Any reserve amounts to be apportioned to TALFF or DAH;

(B) Any DAH amounts to be apportioned to TALFF;

(C) The distribution of amounts apportioned to or from DAH among DAP, JVP, and DNP;

(D) The reasons for any apportionments and their distribution; and

(E) Responses to any comments received.

(d) *Prohibited species.* (1) Prohibited species, for the purpose of this Part, means any species of fish caught while fishing for groundfish, the retention of which is prohibited by other applicable law, including regulations implementing any fishery management plan for that species.

(i) Any catch of halibut by fishing vessels regulated by this Part is catch of a prohibited species, unless retention is authorized by the regulations of the International Pacific Halibut Commission.

(ii) Any catch of Tanner crab (*C. bairdi* or *C. opilio*) by fishing vessels regulated by this Part is catch of a prohibited species as a result of regulations implementing the Fishery Management Plan for Tanner crab of Alaska (see 50 CFR 671).

(iii) Any catch of salmon by fishing vessels regulated by this Part is catch of a prohibited species as a result of regulations implementing the Fishery Management Plan for High Seas Salmon off the Coast of Alaska, east of 175° 00' East longitude (see 50 CFR 674).

(2) Each vessel shall sort its catch as soon as possible after retrieval of the catch and, after allowing for sampling by an observer (if any), shall return any catch of prohibited species or parts thereof to the sea immediately with a minimum of injury regardless of its condition.

(3) There shall be a rebuttable presumption that any prohibited species found onboard a fishing vessel regulated by this Part was caught and retained in violation of this Part.

(4) In any regulatory area where the OY in Table I of paragraph (a) for any species is "0" (zero), any catch of that species by a vessel regulated by this part in that fishing area shall be considered catch of a "prohibited species" and shall be treated in accordance with this paragraph.

(e) *Halibut.* (1) If, during the period between December 1 and May 31, the Regional Director determines that the estimated total catch of halibut in any regulatory area by vessels regulated by this Part will reach the amount listed below, he shall issue a field order pursuant to § 672.22(a) prohibiting, until June 1, groundfish fishing with trawl gear in that regulatory area by vessels regulated by this Part. Regulatory Area and Catch Amount.

Western—29 metric tons (m.t.)

Central—52 m.t.

Eastern—31 m.t.

(2) Fishing for groundfish with trawl gear by vessels regulated by this Part in the applicable regulatory area is prohibited from the effective date of any field order issued pursuant to this paragraph, until June 1.

§ 672.21 [Reserved]

§ 672.22 Time and area closures.

(a) *Field orders.* (1) Field orders issued by the Regional Director under this Part shall include the following information: (i) A description of the area to be opened or closed; (ii) the effective date and any termination date of such opening or closure; and (iii) the reason for the opening or closure.

(2) No field order issued under this paragraph shall be effective until:

(i) It is filed for publication in the **Federal Register**;

(ii) It has been posted and otherwise made available to the public, in accordance with procedures customarily used by the ADF&G for the posting and publicizing of similar notices of closure, for 48 hours prior to its effective date; and

(iii) It has been broadcast at those time intervals, channels and frequencies customarily used by the ADF&G to broadcast similar notices of closure, for 48 hours prior to its effective date.

(3) Field orders issued pursuant to this section shall remain in effect until the earlier of the following dates:

(i) Any expiration date stated in the field order; or

(ii) The effective date of any field order which modifies, rescinds, or supersedes the initial field order.

(b) *Inseason adjustments* (1) *General.* The Regional Director may, following consultation with the ADF&G, prohibit fishing by vessels regulated by this Part, for any species of groundfish in any portion of the Gulf of Alaska during the fishing year.

(2) *Determinations.* Any adjustment under this paragraph shall be based on a determination by the Regional Director that: (i) The condition of any groundfish or halibut stock in any portion of the Gulf of Alaska is substantially different from the condition anticipated at the beginning of the fishing year, and (ii) such differences reasonably support the need for inseason conservation measures to protect groundfish or halibut stocks.

(3) *Data.* Fishery and observer data reported inseason which relates to one or more of the following factors may be considered in making this determination:

- (i) The effect of overall fishing effort within a regulatory area;
- (ii) Catch per unit of effort and rate of harvest;
- (iii) Relative abundance of stocks within the area;
- (iv) Amount of halibut being caught;
- (v) Condition of stocks within the area; and
- (vi) Any other factors relevant to the conservation and management of the groundfish or halibut resource.

(4) *Procedure.* (i) The Regional Director shall publish proposed adjustments in the **Federal Register** for public comment before they are made final, unless the Regional Director finds for good cause that such notice and public procedure is impracticable, unnecessary, or contrary to the public interest.

(ii) If the Regional Director decides, for good cause, that an adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment shall be received by the Regional Director for a period of 15 days after the effective date of the field order. (Address: Director, Alaska Region, National Marine

Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.)

(iii) During any such 15-day period, the Regional Director shall make available for public inspection, during business hours, the aggregate data upon which an adjustment was based. (Address: National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802.)

(iv) If comments are received during the 15-day period, the Regional Director shall reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, shall either: (A) publish in the **Federal Register** a notice of continued effectiveness of the adjustment, responding to comments received; or (B) modify or rescind the adjustment.

(5) *Notice of adjustments.* The Regional Director shall give notice of inseason adjustments by issuance of a field order in accordance with the procedures in paragraph (a) of this section.

(6) *Optimum yield.* No action which has the effect of raising the optimum yield for any species as specified in Table I of § 672.20(a) is authorized under this paragraph.

(c) *Prohibition.* Any fishing contrary to a field order issued under this section is prohibited.

§ 672.23 [Reserved]

§ 672.24 Gear limitations.

Biodegradable escape panels required for all sablefish pots. Each sablefish pot used in fishing under these regulations shall have a biodegradable panel. This panel shall consist of an opening in the webbing of the pot which has been laced, sewn, or secured by untreated cotton twine or other natural fiber no larger than 120 thread which, upon deterioration, produces an opening in the web with a perimeter equal to the perimeter of the tunnel eye opening.

§ 672.25 [Reserved]

§ 672.26 [Reserved]

§ 672.27 Observers.

All fishing vessels subject to this Part must, when so requested by the Regional Director, take aboard an observer.

§ 611.20, Appendix [Amended]

2. 50 CFR Part 611.20 is amended by revising Appendix 1, Section 4.E., Gulf of Alaska Groundfish Fishery, to read as follows:

Appendix 1, Section 611.20

Species and species code	Areas	OY	DAH	DAP	JVP = (DAH - DAP)	DNP	Reserve	TALFF	
4. Alaska fisheries:									
E. Gulf of Alaska groundfish fishery:									
Pollock—701	Western ⁵	66,500	6,737	29	6,708		13,300	46,463	
	Central ⁵	111,066	15,540	6,277	9,263		22,213	73,313	
	Eastern ⁵	19,367	2,584	811	1,773		3,874	12,909	
	Total	196,933	24,861				39,387	132,685	
Pacific Cod—702	Western	19,320	2,193	280	1,213	700	3,864	13,263	
	Central	39,130	7,058	4,060	1,598	1,400	7,826	24,246	
	Eastern	11,550	2,415	327	688	1,400	2,310	6,825	
	Total	70,000	11,666				14,000	44,334	
Flounders—129	Western	12,133	816	116	700		2,427	8,890	
	Central	17,150	1,307	350	957		3,430	12,413	
	Eastern	9,800	1,587	1,050	537		1,960	6,253	
	Total	39,083	3,710				7,817	27,556	
Pacific Ocean Perch ⁴ —780	Western	3,150	402	29	373		630	2,118	
	Central	9,217	1,465	344	1,121		1,843	5,909	
	Eastern	16,800	1,534	93	1,441		3,360	11,906	
	Total	29,167	3,401				5,833	19,933	
Other Rockfish ⁶ —849	Total	8,867	1,050				1,773	6,044	
	Sablefish ⁷ —703	Western	2,450	315	117	198		490	1,645
		Central	4,433	1,423	1,167	256		887	2,123
		Yakutat District ⁸	3,966	1,610	1,377	233		1,656	700
		Southeast Outside ⁹	3,500	3,395	3,290	105		0	105
Total	14,349	6,743				3,033	4,573		

Appendix 1, Section 611.20—Continued

Species and species code	Areas	OY	DAH	DAP	JVP = (DAH - DAP)	DNP	Reserve	TALFF
Atka mackerel—207	Western	5,458	338	0	338		1,092	4,028
	Central	24,309	1,260	0	1,260		4,862	18,187
	Eastern	3,717	817	0	817		743	2,157
	Total	33,484	2,415				6,697	24,372
Squid—509	Total	5,833	175				1,167	4,491
Other species *—499	Total	18,900	2,007				3,780	13,113
Thornyhead rockfish—749	Total	4,375	7				875	3,493

*The category "Pacific Ocean Perch" includes *Sebastes* species *S. alutus* (Pacific Ocean Perch), *S. polypsinus* (northern rockfish), *S. aleutianus* (rougeye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).

*See figure 1 of section 611.92(a) for description of regulatory areas and districts.

*The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific Ocean Perch" as defined in footnote 4 above and *Sebastes* (thornyhead rockfish).

*Excludes values for the Southeast Inside District, which is not governed by these regulations.

*The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

3. 50 CFR Part 611.92 is revised to read as follows:

§ 611.92 Gulf of Alaska groundfish fishery.

(a) *Purpose and scope.* (1) this section regulates foreign fishing for groundfish in the fishery conservation zone of the Gulf of Alaska, which includes that portion of the North Pacific Ocean beyond three nautical miles from the baseline used to measure the U.S. territorial sea, exclusive of the Bering Sea, between 132°40' W. longitude and 170°00' W. longitude. The regulatory areas and districts of the Gulf of Alaska are in Figure 1.

(2) For regulations governing fishing

for groundfish in the Gulf of Alaska by vessels of the United States, see 50 CFR Part 672.

(3) The specifications of total allowable levels of foreign fishing (TALFF's), Reserves, Domestic Annual Harvest (DAH), Joint Venture Processing (JVP), Optimum Yield (OY), and Domestic Non-Processing (DNP) in Appendix 1 to Section 611.20 are effective from November 1, 1980 through December 31, 1981, unless amended. After December 31, 1981, the specifications of TALFF's and Reserves shall continue on a calendar year basis at $\frac{3}{4}$ of the levels specified for the period November 1, 1980 to December 31, 1981, unless amended.

returned to the sea immediately, in accordance with 50 CFR section 611.13. Taking of salmonids and halibut must be recorded and reported, in accordance with 50 CFR section 611.9.

(2) "Target species" are the species that are commercially important and are generally targeted upon by the groundfish fishery. They include pollock, Pacific cod, flounders, Pacific Ocean perch, other rockfish, sablefish, Atka mackerel, squid, and thornyhead rockfish. Sufficient data on each species or species group exist for it to be managed separately from the others. Records of the catch of each target species or species group must be kept.

(3) "Other species" are species that currently have only slight economic value and are not generally targeted upon, but which are significant components of the ecosystem or have economic potential. These species include sculpins, sharks, skates, eulachon, smelts, capelin, and octopus. The optimum yield for these species as a category is set at 5 percent of the combined optimum yields of the target species. Records of the catch of other species must be kept.

(4) "Nonspecified species" include all fish other than those specifically listed in paragraphs (b)(1), (2), and (3) of this section. It is thus a residual category of species of no current or foreseeable economic value or ecological importance which are taken by the groundfish fishery as an accidental bycatch and are in no apparent danger of depletion. Nonspecified species may be either retained or discarded, and only records of the total amount retained, if any, must be kept.

These species categories and the species groups of which they are composed are set forth in Table I.

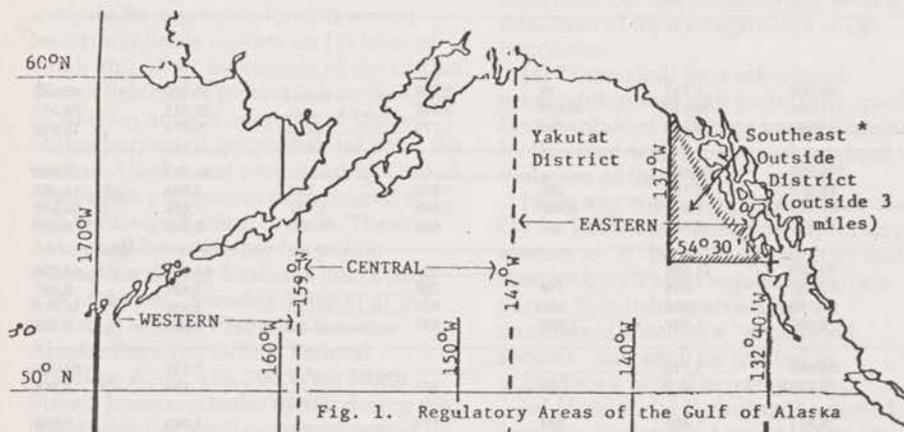


Fig. 1. Regulatory Areas of the Gulf of Alaska

* Southeast Inside District is not shown but is that area inshore from the Southeast Outside District, and is wholly within the territorial waters north of 54° 30' N. lat and east of 137° W. long.

(b) *Categories of Species.* Four categories of species are recognized for regulatory purposes in this fishery.

(1) "Unallocated species" include shrimps, scallops, snails, Pacific herring, Pacific halibut, salmonids, King crab,

Tanner crab, Dungeness crab, corals, surf clam, horsehair crab, and lyre crab. Except to the extent that their harvest is authorized under other regulations, the taking of these species must be avoided. When they are taken, they must be

Table I.—Categories of Species Involved in the Gulf of Alaska Groundfish Fishery

Unallocated species ¹	Target species ²	"Other" species ³	Nonspecified species ⁴
Salmonids, Halibut, Herring, King Crab, Tanner Crab, Coral, Shrimp, Clams, Horsehair Crab, Lyre Crab, Scallops, Snails, Dungeness Crab, and Surf Clams.	Pollock, Cod, Flounders, Atka Mackerel, Sablefish, Pacific Ocean Perch, Thornyhead Rockfish, Other Rockfish, and Squid.	Sculpins, Sharks, Skates, Eulachon, Smelts, Capelin, and Octopus.	All species not included in other three categories.

¹ Must be returned to the sea; records must be maintained as required by § 611.9.

² Commercially important; sufficient data base to allow management based on biological, social, economic and ecological characteristics; specific OY applies to each species; records must be maintained.

³ Slight economic value, greater economic potential or important ecosystem component, but insufficient data to allow discrete species management; records must be maintained of the aggregate catches.

⁴ No current economic value, may be discarded or retained, but if retained records must be maintained of the aggregate retained catches.

(c) Authorized fishery

(1) *OY's TALFF's and reserves.* (i) The specifications of optimum yield (OY), estimates of domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and TALFF's and Reserves are set forth in Appendix 1 to Section 611.20. Species listed in paragraph (b)(1) and Table I of this section as "unallocated species," or species for which the TALFF listed in Appendix I to Section 611.20 is zero, shall be treated as prohibited species in accordance with 50 CFR section 611.13.

(ii)(A) *Apportionment of Reserves.* (1) As soon as practicable after the first day of the following months, and after consultation with the Council, the Regional Director may apportion to TALFF, in accordance with paragraph (c)(1)(ii)(C) of this section, all or part of the following amounts of each Reserve: April—40 percent; June—40 percent; August—20 percent. (2) As soon as practicable after the first day of the following months, and on such other dates as he determines necessary, the Regional Director may apportion to DAH, in accordance with paragraph (c)(1)(ii)(C) of this section, any amounts of any Reserve that he determines to be needed to supplement DAH: April, June, and August.

(B) *Apportionment of Initial DAH.* As soon as practicable after the first day of August, the Regional Director shall apportion to TALFF that part of the DAH which he determines will not be harvested by United States fishermen during the remainder of the year.

(ii) (C) *Standards and Procedure for Apportionment—(1) General.* The Regional Director shall apportion to TALFF under paragraphs (c)(1)(ii) (A) and (B) of this section only those amounts which he determines will not be harvested by vessels of the United States during the remainder of the fishing year. The amount of reserve

which the Regional Director, determines will be harvested by vessels of the United States may, at the discretion of the Regional Director, either be apportioned to the estimate of DAH, or retained in the reserve as eligible for later apportionment under paragraph (c)(1)(ii) of this section.

(2) *Factors.* In determining whether or not amounts proposed to be apportioned under paragraphs (c)(1)(ii) (A) and (B) of this section will be harvested by vessels of the United States during the remainder of the fishing year, the Regional Director shall consider the following factors, although the Regional Director shall not be limited to these factors:

(i) Reported United States catch and effort by species and area compared to previously projected United States harvesting capacity;

(ii) Projected United States catch and effort by species and area for the remainder of the fishing year;

(iii) Amounts of fish, particularly United States harvested fish, already purchased or processed by United States fish processors during the fishing year, compared to previously projected processing capacity of U.S. processors;

(iv) Projected processing capacity, and utilization of that capacity for the processing of United States harvested fish, by United States fish processors for the remainder of the fishing year;

(v) Amounts of United States harvested fish already purchased or received by foreign fishing vessels, compared to previously projected levels of such purchase or receipt; and

(vi) The need to maintain orderly fisheries despite any misspecification of by-catch species amounts in mixed species fisheries.

(3) *Allocation of Increases and Decrease in DAH, Among DAP, JVP, and DNP.* The Regional Director shall allocate any increases or decreases in DAH amounts resulting from

apportionments under paragraphs (c)(1)(ii) (A) and (B) of this section among the three components of DAH: the estimates of DAP; JVP; and DNP.

(4) *Public Comment.* (i) Comments may be submitted to the Regional Director concerning: whether, and the extent to which, vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year; and whether, and the extent to which, United States harvested groundfish can or will be processed by United States fish processors or by foreign fishing vessels. Comments should be addressed to Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, and must be received by the Regional Director no later than 15 days before the relevant date specified in paragraph (c)(1)(ii)(A) of this section. When the Regional Director determines that apportionment is required on dates other than those specified in paragraph (c)(1)(ii) (A) or (B), the Regional Director shall issue a **Federal Register** notice on the proposed apportionment. The notice shall state the period during which comments may be submitted.

(ii) The Regional Director shall consider any timely comments submitted in accordance with this paragraph in determining whether and to what extent vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (c)(1)(ii) (A) and (B) of this section.

(iii) The Regional Director shall compile in aggregate form the most recent available reports on: level of catch and effort by vessels of United States fishing for groundfish taken in the Gulf of Alaska; and amounts of United States harvested groundfish taken in the Gulf of Alaska and processed by United

States fish processors or delivered at sea to foreign fishing vessels. These data shall be available for public inspection during business hours (8:00 a.m.-4:30 p.m. Monday-Friday) at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(5) *Procedure.* As soon as practicable after each of the dates specified in, and each additional apportionment date selected under paragraph (c)(1)(ii) (A) or (B) of this section, the Regional Director shall publish in the **Federal Register**:

(i) Reserve amounts to be apportioned to the TALFF or DAH; (ii) any DAH amounts to be apportioned to TALFF; (iii) the distribution of amounts apportioned to or from DAH among DAP, JVP, and DNP; (iv) the reasons for any apportionments and their distributions and (v) responses to any comments received.

(2) *Fishing permitted.* (i) The catching in the Gulf of Alaska and retention of the amount of any groundfish for which a nation has an allocation is permitted, except in the following circumstances:

(A) When vessels of a nation have caught the amount of the allocation of that nation for any groundfish species (or species group, e.g. "other rockfish") in any regulatory area, fishing for groundfish in that regulatory area by vessels of that nation is prohibited, even if (1) allocations of other species for that nation in that regulatory area have not been reached, or (2) the nation has not received a notice issued pursuant to § 611.15(c) prohibiting fishing by vessels of that nation in that regulatory area; or

(B) On the effective date of a notice of closure issued by the Regional Director pursuant to the procedures of § 611.15(c), fishing by vessels of that nation is prohibited for the groundfish species (or species groups), in the regulatory areas and during the periods stated in the notice; or

(C) As otherwise prohibited by this section.

(D) The provisions of paragraph (c)(2)(i)(A) of this section do not apply to foreign vessels fishing with longline gear unless the allocation reached is for Pacific cod or sablefish. However, when the area allocation of any groundfish species, or species group other than Pacific cod, or sablefish is reached, any subsequent catch of that species in that area by vessels fishing with longline gear shall be considered catch of a "prohibited species" and treated in accordance with the provisions of § 611.13. Catches of those species or species group in the target and other species categories that become

prohibited species must be recorded and reported as required by 50 CFR 611.9.

(E) A notice of closure issued pursuant to paragraph (c)(2) of this section shall not apply to any receipt or processing by foreign vessels of United States harvested fish authorized by a permit issued by the Department of Commerce under the Act. Receipt of U.S. harvested fish and the conduct of other operations in support of U.S. vessels by foreign fishing vessels in the management area may continue until specifically prohibited under the procedures prescribed in the applicable permit.

(ii) Each year, the Regional Director shall issue a notice of closure pursuant to the procedures of § 611.15(c), prohibiting fishing with specified gear types for any groundfish species, species group, or species category in the applicable regulatory area or district by vessels subject to this section, when the Regional Director determines that one or more of the following catch limitations will be reached:

(A) OY for any groundfish species, species group, or species category, in a regulatory area or district: the Regional Director shall issue a notice prohibiting, through December 31, fishing using trawl gear for groundfish in that regulatory area or district by vessels subject to this section, except that if the optimum yield for sablefish or Pacific cod in a regulatory area or district will be reached, the Regional Director shall prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section through December 31;

(B) TALFF for any groundfish species, species group, or species category, in a regulatory area or district: the Regional Director shall issue a notice prohibiting through December 31 fishing using trawl gear for groundfish in that regulatory area or district, except that if the TALFF for sablefish or Pacific cod in a regulatory area or district will be reached, the Regional Director shall prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section.

(C) The allocation of a nation for any groundfish species, species group, or species category in a regulatory area or district: the Regional Director shall issue a notice prohibiting through December 31 in that regulatory area or district, fishing using trawl gear for groundfish by vessels of that nation; and retention of that species, species group, or species category by vessels of that nation using longline gear. However, if a national allocation for sablefish or Pacific cod in a regulatory area or district will be

reached, the Regional Director shall prohibit fishing for groundfish in that regulatory area or district by all vessels of that nation through December 31.

(iii) When a notice has been issued pursuant to this subsection prohibiting fishing, vessels of a nation subject to this section may resume fishing in a regulatory area or district: (A) on the effective date of a notice issued pursuant to § 611.15(c) rescinding the notice of closure previously issued; or (B) when the time period stated in the notice of closure expires.

(d) *Open areas.* (1) Except as prohibited in paragraph (e) of this section, foreign fishing for groundfish is permitted in the Gulf of Alaska beyond twelve nautical miles from the baseline used to measure the U.S. territorial sea, and between three and twelve nautical miles from the base line used to measure the U.S. territorial sea between 169°00' and 170°00' W longitude.

(2) In addition to the areas in which foreign fishing is permitted under paragraphs (d) and (e) of this section, foreign vessels holding Department of Commerce permits to receive United States harvested fish at sea may also receive only United States harvested fish and conduct other operations in support of U.S. vessels in areas where foreign fishing is prohibited if: (i) that area is beyond three nautical miles from the baseline used to measure the U.S. territorial sea; (ii) receipt of the U.S. harvested fish or conduct of such support operations by the foreign vessel is in an area and during a time when fishing by U.S. vessels being supported is permitted under 50 CFR Part 672; and (iii) receipt by the foreign vessel or conduct of such support operation in that area is not prohibited by the terms and conditions of that vessel's permit to receive U.S. harvested fish.

(e) *Closed areas.*

(1) *All fishing.* Foreign fishing for groundfish is prohibited in the following portions of the management area:

(i) *Cape Edgecumbe-Salisbury Sound:* between 56°53' N. latitude and 57°24' N. latitude east of 137°00' W. longitude.

(ii) *Cross Sound Gully:* between 57°50' N. latitude and 58°12' N. latitude east of 137°25' W. longitude.

(iii) *Fairweather Gully:* the area bounded by rhumb lines connecting the following coordinates in the order listed:

North latitude	West longitude
58°28'	140°00'
58°48'	138°50'
58°10'	139°11'
58°28'	140°00'

(iv) "Davidson Bank": between 163°04' W. longitude and 166°00' W. longitude north of 53°00' N. latitude.

(2) Fishing with trawl gear. Trawling for groundfish by vessels subject to this section is prohibited in the following areas during the periods specified:

(i) 140° W. longitude to 147° W. longitude, from November 1 to February 16.

(ii) 147° W. longitude to 157° W. longitude from February 16 to June 1.

(iii) Six "Kodiak gear areas," from August 10 to June 1. These areas, bounded respectively by rhumb lines connecting in each of the following groups the coordinates in the order listed, are described as follows:

(C) North latitude	West longitude
57°15'	154°51'
56°57'	154°34'
56°21'	155°40'
56°26'	155°55'
57°15'	154°51'
(B)	
56°27'	154°06'
55°46'	155°27'
55°40'	155°17'
55°48'	155°00'
55°54'	154°55'
56°03'	154°36'
56°03'	153°45'
56°30'	153°45'
56°30'	153°49'
56°27'	154°06'
(C)	
56°30'	153°49'
56°30'	153°00'
56°44'	153°00'
56°57'	153°15'
56°45'	153°45'
56°30'	153°49'
(D)	
57°05'	152°52'
56°54'	152°52'
56°46'	152°37'
56°46'	152°20'
57°19'	152°20'
57°05'	152°52'
(E)	
57°35'	152°03'
57°11'	151°14'
57°19'	150°57'
57°48'	152°00'
57°35'	152°03'
(F)	
58°00'	152°00'
58°00'	150°00'
58°12'	150°00'
58°19'	151°29'
58°00'	152°00'

(iv) Three "Kodiak halibut areas," from 5 days before until 5 days after the first opening of the U.S. halibut fishing season, if the first opening of that fishing season occurs after May 26 (as established by regulations of the International Pacific Halibut Commission).

(A) The three "Kodiak halibut areas", bounded respectively by rhumb lines, are described as follows:

(1) 58°30' N. lat. to 59°30' N. lat., between 147°40' W. long. and 150°20' W. long.

(2) 57°40' N. lat. to 58°05' N. lat., between 148°50' W. long. and 150°30' W. long.

(3) 55°30' N. lat. to 56°25' N. lat., between 155°45' W. long. and 156°30' W. long.

(B) The Regional Director shall give notification of the first opening date of the U.S. halibut fishing season to the designated representative of each foreign nation at least 7 days before the U.S. halibut fishing season first opens.

(3) Fishing with longline gear.
(i) General. Longline fishing for groundfish by vessels subject to this section is prohibited east of 140° W. longitude at all times. For the purpose of this § 611.92, longline means a stationary, buoyed and anchored line with hooks or pots attached, or the taking of fish by means of such a device.

(ii) Longline fishing for sablefish. Longline fishing for sablefish by vessels subject to this section between 140° and 169° W. longitude is prohibited: (A) Landward of the 400 meter depth contour, from 0800 GMT May 1 to 0800 October 1; and (B) landward of the 500 meter depth contour, from 0800 GMT October 1 to 0800 GMT May 1.

(iii) Longline fishing for Pacific cod. Longline fishing for Pacific cod by vessels subject to this section between 140° and 169° W. longitude is prohibited landward of the 400 meter depth contour during the halibut fishing seasons as established by regulations of the International Pacific Halibut Commission. The Regional Director shall give notification of the opening and closing dates of the U.S. halibut fishing seasons to the designated representative of each foreign nation, at least 7 days before the opening and closing dates of the U.S. halibut fishing seasons.

(f) Gear restrictions.
(1) Vessels using trawl gear. During the period from December 1 to June 1, vessels subject to this section shall not use trawls other than pelagic trawls (trawls in which neither the net nor the otter boards operate in contact with the seabed) equipped with recording net-sonde devices functioning properly during each tow.

(i) The footrope of the net shall not be in contact with the seabed for more than 10 percent of any tow, as indicated by the net-sonde readout.

(ii) Vessels subject to this section shall not attach to a pelagic trawl any protective device (such as chafing gear, rollers or bobbins) which would make it possible to fish on the seabed.

(2) Vessels using longline gear. Vessels subject to this section shall not use gear other than longline gear when conducting a directed fishery for:

(i) Sablefish; or

(ii) Pacific cod in the area which is both west of 157° west longitude and landward of the 500 meter depth contour.

(g) Additional statistical report—Annual. In addition to the requirements of § 611.9, each nation whose fishing vessels fish subject to this section shall submit a written annual report to the Regional Director setting forth catch and effort statistics regarding fishing activities conducted under this section during the annual period from January 1 through December 31 by May 31 of the following year. A two-month report will be required by May 31, 1981, for the period November 1 through December 31, 1980.

(1) Foreign vessels fishing with trawl gear shall report:

(i) Effort in hours trawled and number of days fished, by vessels class, by gear type, by month, by 1.2° (lat.) x 1° (long.) fishing area;

(ii) Catch in metric tons, by vessel class by gear type, by month, by ½° (lat.) x 1° (long.) fishing area, by the following species categories: yellowfin sole, rock sole, flathead sole, arrowtooth flounder, other flounders, Pacific ocean perch, other rockfish, thornyhead rockfish, Pacific cod, sablefish (blackcod), walleye (Alaska) pollock, Atka Mackerel, squid, any other species taken in excess of 1,000 metric tons, and other fishes.

(2) Foreign fishing vessels fishing with longline gear shall report:

(i) Effort in number of longline units (300 fathoms of longline or groundline per unit) and number of hooks per unit, number of pots, duration of soaking time for longlines and pots, and number of days fished, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) fishing area; and

(ii) Catch in metric tons, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) fishing area, by the species categories listed in paragraph (g)(1)(ii) of this section.

[FR Doc. 80-34506 Filed 10-31-80; 5:02 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 45, No. 216

Wednesday, November 5, 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 971

Lettuce Grown in Lower Rio Grande Valley in South Texas; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would impose container, pack, and inspection requirements on shipments of lettuce grown in the Lower Rio Grande Valley in South Texas. Standardizing trading practices would improve marketing efficiency, promote orderly marketing of such lettuce, and help provide better quality lettuce at reasonable prices to consumers.

DATE: Comments due November 20, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447-2615. The Draft Impact Analysis relating to this proposed rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Marketing Agreement No. 144 and Marketing Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The South Texas Lettuce Committee, established under the order, is responsible for its local administration.

This proposal is based upon the recommendations made by the committee at its public meeting in McAllen, Texas, on October 21, 1980.

The proposed container and pack requirements are in accord with the generally accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers limited to those found acceptable to the trade for safe transportation of the lettuce, and would prevent deceptive practices.

In addition the South Texas lettuce industry is accustomed to operating on a six day shipping week. A six day shipping week has proven adequate for five days distribution in terminal markets, therefore "packaging holidays" on Sundays would promote more efficient and orderly marketing. However, handlers would be permitted, with the approval of the committee, to package lettuce on Sunday and on Christmas day whenever the committee finds that distribution is inadequate, or that crop damage is imminent.

No purpose would be served by regulating the containers or pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore, each person would be exempt from such requirements for up to two cartons—or the equivalent—of lettuce per day.

Provisions with respect to special purpose shipments, including export, are designed to meet the different requirements for export and noncommercial domestic trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market. These buyers use lettuce which fails to meet the pack and container requirements. Inasmuch as such shipments have a negligible effect on the domestic market, they should be permitted if certain safeguard requirements are met.

It is proposed that § 971.320 (44 FR 65964, November 16, 1979; 45 FR 10, January 2, 1980) be deleted and a new § 971.321 be added as follows:

§ 971.321 Handling regulation.

During the period December 1, 1980, through March 31, 1981, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b) and (c) of this section, or unless such lettuce is handled in accordance with paragraphs (d) or (e) of this section.

Further, no person may package lettuce during the above period on any Sunday, or on Christmas Day, unless approved in accordance with paragraph (f) of this section.

(a) *Containers.* Containers may be only the following depth, width and length respectively:

(1) Cartons with inside dimensions of 10 inches x 14¼ inches x 21⅝ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches x 14 inches x 21 inches (designated as carrier container No. 7306), or

(3) Cartons with inside dimensions of 14 inches x 9¾ inches x 21 inches (designated as carrier container No. 7313), or

(4) Cartons with inside dimensions of 10¾ inches x 16⅞ inches x 21½ inches (designated as carrier container No. 7312—flat pack).

(b) *Pack.* (1) Lettuce heads, packed in containers No. 7303, 7306, or 7313; if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 7312 may be packed only 24 or 30 heads per container.

(c) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued for it, except when relieved of such requirement by paragraphs (d) or (e) of this section.

(2) No handler may transport by motor vehicle, or cause such transportation of, any shipment of lettuce for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI-23) furnished by the inspection service verifying that such shipment meets the pack and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of

inspection, as shown on such certificate or form.

(d) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons or the equivalent of lettuce a day without regard to inspection, assessment, container and pack requirements. This exception shall not be applied to any shipment of over two cartons of lettuce.

(e) *Special purpose shipments.* The container, pack, and inspection requirements of this section shall not be applicable to shipments as follows:

(1) For relief, charity, experimental purpose, or export to Mexico, if a handler presents a Certificate of Privilege for such lettuce prior to handling it, pursuant to §§ 971.120-971.125; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it in a vehicle bearing Mexican registration (license).

(f) *Suspension of packing holidays.* Upon approval of the committee, the prohibition against packing lettuce on Christmas or on any Sunday may be modified or suspended to permit the handling of lettuce provided such handling complies with the procedures and safeguards specified by the committee.

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

Dated: October 31, 1980.

Malvin E. McGaha,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-34500 Filed 11-4-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500, 503, 504, 505, and 506

[Docket No. ERA-R-80-24]

Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Extension of time for public comment on proposed rulemaking.

SUMMARY: On August 1, 1980, the Economic Regulatory Administration

(ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking implementing Sections 212(d) and 312(c) of the Powerplant and Industrial Fuel Use Act (FUA or the Act) regarding cogeneration (45 FR 53368 August 11, 1980). These two sections authorize the permanent exemption of certain cogeneration facilities from the requirements of the Act. The public comment period expires November 7, 1980. However, requests have been received from several interested parties for additional time to comment more fully on the proposed rule. In recognition of the importance and complexity of the proposed rule, ERA is extending the public comment period to December 15, 1980.

DATE: Comments should be received by 4:30 p.m. on December 15, 1980.

ADDRESSES: All written comments should be sent to: Department of Energy, Public Hearing Management, Docket No. ERA-R-80-24, Room B-210, 2000 M Street, NW., Washington, D.C. 20461, and identified on the outside envelope and on each document with the designation "Powerplant and industrial Fuel Use Act of 1978; Cogeneration Exemption." Fifteen copies should be submitted. All comments received will be available for public inspection in the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. between the hours of 8:00 a.m. and 4:20 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-4055.

Dorothy M. Hamid (Public Hearings Division), Economic Regulatory Administration, Department of Energy, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3974.

Stephen M. Stern (Office of Regulatory Policy), Economic Regulatory Administration, Department of Energy, Room 7002, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3217.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3002, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3649.

C. Randolph Comstock (Office of General Counsel), Department of Energy, Room 6-G-087, 1000 Independence Avenue, S.W., Washington, D.C. 20461, (202) 252-2967.

Issued in Washington, D.C., October 31, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-34569 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. 8940]

Control Data Corp., et al.; Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 80-32783 appearing on page 69470 in the issue of Tuesday, October 21, 1980, on page 69471, third column, first paragraph under "Definitions," line 4, "be defined as an" should be corrected to read "be defined as any."

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Dormant and Low Volume Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing two rules to aid it in monitoring continued compliance by designated contract markets with the requirements of the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* (1976 and Supp. III 1979) ("Act"). One of these rules provides that additional delivery months may be listed for dormant contracts only pursuant to passage by a contract market of an implementing bylaw, rule, regulation or resolution and approval by the Commission under Section 5a(12) of the Act and Rule 1.41(b). The second rule establishes contract market reporting requirements for low volume contracts. In the event a contract obtains low volume status, a contract market must notify the Commission and supply: (1) data concerning the contract's daily trading volume and number of open contracts during the low volume trading period, (2) summary data concerning the nature of trading by floor brokers or traders during that period, (3) indications that the contract is being used by commercial participants, and (4) those

surveillance procedures instituted by the contract market to monitor trade practices in the low volume contract.

DATE: Comments must be received on or before February 1, 1981.

FOR FURTHER INFORMATION CONTACT:

John P. Connolly, Chief Counsel, Division of Economics and Education, (202) 254-3821, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581

SUPPLEMENTARY INFORMATION: Boards of trade seeking designation as contract markets under the Commodity Exchange Act have initial and continuing responsibilities under the Act, including, in particular, Sections 5 and 5a, 7 U.S.C. 7 (1976), and 7a (1976 and Supp. III 1979). Accordingly, both the exchanges as self-regulatory organizations and the Commission must monitor currently designated contract markets in order to ensure that contract markets remain in compliance with the requirements of the Act. The Commission believes that both dormant and low volume contracts raise particular questions concerning the requirements of continued designation of contract markets under the Act.

The Commission expects that these proposed rules on dormant and low volume contracts, if adopted, will further ensure that exchanges are discharging their self-regulatory responsibilities to monitor designated contract markets. The proposed Commission rule on dormant contracts is intended to make clear that contract markets have no obligation to ensure that all delivery months listed for trading serve an economic purpose and that the terms and conditions of such delivery months are in conformity with current cash market conditions. To ensure that this obligation is fulfilled by contract markets, the Commission is proposing to establish by regulation its authority to review dormant contracts before additional months can be listed for trading for purposes of ascertaining that: (1) it can reasonably be expected that trading in additional (newly listed) delivery months will serve an economic purpose, and (2) the contract terms and conditions of the additional (newly listed) delivery months will reflect current trade practices and the underlying cash market.

The proposed reporting requirements for low volume contracts are intended to provide that both contract markets and the Commission obtain information which will be beneficial in evaluating the contract market's continued compliance with Sections 5 and 5a of the Act. This information pertains to the composition of trading volume, the nature of open positions in low volume

contracts, and those additional surveillance procedures, if any, instituted by the contract market to monitor trade practices in the low volume market.

The Commission currently permits some contract markets to list separately for concurrent trading, contracts which differ in respects other than the month of delivery. For example, the Coffee, Sugar and Cocoa Exchange has been designated by the Commission as a contract market in sugar, but lists separate contracts for sugar #11 and sugar #12. The former is also known as the world contract and calls for delivery in foreign ports of major sugar producing countries. The latter is known as the domestic contract and calls for delivery in domestic ports. The Commission intends the proposed rules on dormant and low volume contracts to apply individually to such separate contracts, irrespective of whether or not such contracts are traded pursuant to a single contract market designation. However, the Commission does not intend that the rules would apply individually to trading in contracts which differ only due to amendments which have been recently introduced for newly listed delivery months, but which will apply uniformly at some future date.

Dormant Contracts

The Commission is of the view that the listing of additional months in a dormant contract—those contracts which have not traded in any future listed for trading in any one calendar month—raise particular issues relating to the contract's continued compliance with the Act.

Specifically, under Section 5(g) of the Commodity Exchange Act and pursuant to Commission Guideline No. 1,¹ the Commission may designate a board of trade as a contract market for futures trading when and only when it demonstrates that transactions for future delivery in the commodity will not be contrary to the public interest. Among other things, Commission Guideline No. 1 makes clear that the Section 5(g) public interest test includes an "economic purpose" test² and "to meet the 'economic purpose' test, a board of trade is expected to establish that something more than occasional use of the contract for hedging or price

basing exists, or can reasonably be expected to exist."³ Further, the requirement that a futures contract serve an economic purpose is a continuing condition of contract market designation.⁴ Thus, a basic element of the public interest reflected in the Act is that transactions for the future delivery of a commodity must serve an economic purpose in order to be permitted. The fact that a contract has ceased trading could indicate that such a contract is not presently serving and perhaps is incapable of serving such an economic purpose—particularly in view of the fact that such contracts generally exhibit very low levels of trading volume for some period in advance of the time they become dormant.

In addition to a failure to serve an economic purpose, a dormant contract raises potential problems concerning other requirements contained in Sections 5 and 5a of the Act, which require the conformity of contract terms and conditions to current cash market conditions.⁵ For active contracts the Commission depends, to a certain extent, upon its surveillance of the trading activity and delivery experience, as an early indicator that the terms and conditions of particular contracts may require alteration if they are to remain in compliance with the Act. In fact, the Commission's surveillance of futures trading activity in particular contracts has been an important basis for requests under Rule 1.50 of the regulations.⁶

In the case of dormant contracts, of course, surveillance experience cannot serve as an indicator of possible contract deficiencies. Moreover, in the event that contracts trade at a low level for some time in advance of the time they become dormant, the Commission's surveillance experience during this earlier time period may not provide a

¹ CCH, Comm. Fut. L. Rep. ¶6145, at p. 6045. The Commission is proposing (elsewhere in this issue) to adopt Rule 5.1 to replace its current Guideline No. 1.

² See, Sections 5b and 6(a) of the Act, 7 U.S.C. §§ 7(b) and 8(a)(1976). Congress has authorized the Commission, under Sections 5b and 6(a) of the Act, to suspend or revoke the designation of any board of trade as a contract market when the board of trade fails to comply with the Act, or any of the rules, regulations, or orders of the Commission thereunder, or upon a showing that such board of trade is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in Section 5 of the Act, or that such board of trade, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of the Act or any of the rules, regulations, or orders of the Commission thereunder.

³ See, e.g., Sections 5(a), 5(d), and 5a(10) of the Act, 7 U.S.C. §§ 7(a), 7(d), and 7a(10) (1976).

⁴ 17 CFR § 1.50 (1980). The Commission, may, under Rule 1.50, request that a contract market demonstrate that it is complying with the conditions and requirements of Sections 5 and 5a of the Act.

¹ CCH Comm. Fut. L. Rep. ¶6145.

² The legislative history of the Act makes clear that Section 5(g) of the Act includes the concept of an "economic purpose" test subject to the final test of the public interest. Thus, it is not sufficient under the Act that a proposed contract for future delivery represent merely an attractive vehicle for speculative activity. See, S. Rep. No. 93-1194, 93d Cong., 2d Sess. 36 (1974); H. Rep. No. 93-975, 93d Cong., 2d Sess. 29 (1974).

meaningful indication of the conformity of contract terms and conditions to current cash market practices.⁷ Therefore, the Commission believes it appropriate that before additional months may be listed for the trading of a dormant contract, the Commission should be afforded the opportunity to review the prospective economic purpose of trading in those additional delivery months proposed for listing and, in this context, any new terms and conditions of the contract which the contract market may submit under Rule 1.41(b). Without such a review, the Commission cannot determine the current adequacy of the terms and conditions of such futures contracts or whether such contracts continue or can be expected to serve an economic purpose.⁸

The Commission believes that a significant portion of contracts which would be defined as dormant under the proposed rule are not currently listed for trading. However, the Commission wishes to make clear that the proposed rule concerning dormant contracts applies exclusively to the listing of additional months for trading and would not impose any restrictions on the trading of or positions in delivery months which were listed for trading before trading in all futures ceased for a period of one calendar month.

Under the proposed rule, for example, if the next five delivery months had already been listed for trading in a contract prior to the absence of trading for one calendar month, trading of the positions in these months would be unaffected by the rule. The Commission understands that a contract could become subject to the proposed rule at a time when there are outstanding positions in the contract. However, in view of the fact that the rule does not affect trading in those months previously listed for trading, it will not interfere with existing contractual obligations.

⁷The Commission realizes that a contract market, subject to Commission approval, may effect amendments to the terms and conditions in an effort to revive trading interest in a contract which trades at low volume or is dormant. If these attempts are unsuccessful, however, the Commission's experience indicates that it is likely that the contract will not be regularly updated and amended to reflect changes in the cash market for the underlying commodity.

⁸The Commission staff has estimated that had this proposed rule been effective for the calendar month of August 1980, 49 contracts would have fallen within the definition of dormant contract. A classification of these contracts into class and number is as follows: grains and oilseeds—13, livestock and livestock products—10, other agricultural—3, metals—4, other nonmetallic industrial products—6, foreign currencies—11, United States debt securities—2.

The Commission considered, as one alternative approach to the problems raised by dormant contracts, a requirement that contract markets on which there is no trading activity, routinely demonstrate continued compliance with the Act through the periodic filing of appropriate materials pursuant to Rule 1.50 of the Commission's regulations. This approach would have provided some assurance, in lieu of actual trading experience, that the contracts could be expected to serve an economic purpose and the the contract markets had made any appropriate amendments to the terms and conditions of the contract in response to changing cash market conditions. However, the Commission rejected this approach for the following reasons: (1) the Commission does not believe it advisable to expend its limited resources on the review of materials submitted under Rule 1.50 for contracts for which there is no current trading interest, and (2) it appears to the Commission that routinely requiring Rule 1.50 submissions and possible contract amendments for contracts for which contract markets have no current interest would impose an unreasonable burden on the industry.

Therefore, the Commission is proposing a rule to require that the listing of additional months for trading in dormant contracts may take place only pursuant to a bylaw, rule, regulation or resolution of the contract market and expressly to provide that the contract market is required to submit for Commission review and approval under Section 5a(12) and Rule 1.41(b), any such bylaw, rule, regulation or resolution. A bylaw, rule, regulation or resolution which implements a contract market's decision to list for trading additional months in dormant contracts, must be submitted and approved by the Commission prior to being placed into effect by the contract market under Section 5a(12) of the Act⁹ and under Commission Rule 1.41(b).¹⁰

The proposed rule provides that the Commission shall within thirty days of receipt of a bylaw, rule, regulation or resolution of a contract market to list additional months for the trading of a dormant contract, advise that contract market whether any further information will be required to complete the Section 5a(12) review process. If, within the thirty day period, the Commission does

not provide such notification or notification that the Commission's review may take longer than thirty days, or publish for public comment in the **Federal Register** such bylaw, rule, regulation or resolution as one of major economic significance within the meaning of Section 5a(12), the bylaw, rule, regulation or resolution of the contract market to list additional months for trading will be approved by the Commission pursuant to Section 5a(12) and Rule 1.41(b) and formal notification of such approval shall be provided to the contract market. Of course, the proposed rule would not preclude the Commission from instituting a Section 5a(12) disapproval proceeding with respect to any such bylaw, rule, regulation or resolution.

The Commission does not anticipate that more than thirty days will be required to review those contracts which recently and abruptly became dormant due to changing economic circumstances. However, a more complete review, similar to that accorded applications for new contract market designations may be necessary for those contracts which have been dormant for a longer period of time. Further, the Commission wishes to make clear that it intends to expedite consideration of contract market submissions concerning dormant contracts.

Proposed Rule 5.2

Proposed Commission rule 5.2 defines "dormant contract" to be a commodity futures contract in which not trading has occurred in any future listed for trading in any one calendar month, which follows the earlier of the twelfth calendar month subsequent to the date of the initial trading of the contract, or the eighteenth calendar month after designation. Contract markets would not be permitted to list additional trading months in a contract once it becomes a dormant contract. Rule 5.2 further provides that trading in additional (newly listed) delivery months of such contracts would be unlawful unless resumed pursuant to a bylaw, rule, regulation or resolution of a contract market that had been submitted to and approved by the Commission under Section 5a(12) of the Act and rule 1.41(b). Rule 5.2 further provides that the contract market shall certify to the Commission that the contract is dormant, and provide the Commission with an economic justification for the listing of additional months in the dormant contract. Such an economic justification shall address those economic conditions which have changed subsequent to the time the

⁹7 U.S.C. § 7a(12) (Supp. III 1979).

¹⁰17 CFR § 1.41(b) (1980). See also, 45 FR 51520, 51524, 51526, n. 46 (August 1, 1980). Such a bylaw, rule, regulation or resolution to resume trading does not fall within the operational and administrative exemption from Section 5a(12) and Rule 1.41(b), contained in Rule 1.41(c).

contract became dormant and an explanation of how the new terms and conditions, if any, will make it reasonable to expect that the contract will be used on more than an occasional basis for hedging or price basing.

Low Volume Contracts

Questions concerning economic purpose also arise in the case of contracts which exhibit a low level of trading activity. The Commission has observed that for several existing low volume markets, futures prices may not fulfill a significant price basing function because they are not generally disseminated or are disseminated on an infrequent basis. In addition, the Commission has further observed that in several low volume markets, evidence of significant hedging use is absent.¹¹ Accordingly, the Commission believes that when a contract becomes a low volume contract it may be necessary for the contract market to file periodic reports which will provide some evidence concerning whether that contract continues to serve an economic purpose, as required by section 5(g) of the Act.

In addition, there have been allegations with respect to several low volume contract markets, that certain trade practice abuses have arisen from the lack of liquidity. The Commission believes that because of the potential lack of liquidity in low volume markets, noncompetitive and prearranged trades are more likely to occur than in active markets. In view of this enhanced potential for trade practice abuses, the possibility also exists that those prices which are disseminated may be inaccurate.

Accordingly, the Commission has proposed a rule which would require a contract market to file periodic reports with the Commission concerning low volume contracts. Those reports shall include a record of daily volume and open positions for each day during the low volume trading period and the proportions of trading during the last three calendar months of the low volume trading period which represent the trading of floor brokers and floor traders for various types of accounts. In addition, the report must include for the last three month end dates (last

¹¹ Parts 15, 17 and 18 of the Commission's regulations require reports for all "reportable positions" of futures commission merchants, foreign brokers and individual traders concerning (among other things) the identification of accounts, size of futures positions, and information pertaining to commercial affiliation. Because this information is required only in connection with positions which exceed a certain level, however, the Commission may receive little or no information concerning the nature of accounts in low volume contracts.

business day of the month) indications concerning whether the contract is being utilized by commercial participants and a description of additional surveillance procedures which the contract market has instituted to monitor trade practices in the trading of the low volume contract.

The Commission has considered, as an alternative to proposing this particular requirement, that it routinely issue requests under Rule 1.50 of its regulations to require those contract markets which trade low volume contracts to demonstrate continued compliance with Sections 5 and 5a of the Act. However, in view of its limited resources, the Commission does not believe this alternative is desirable. For example, the Commission does not believe that low volume by itself would necessarily require a Rule 1.50 review of the contract. However, the Commission believes that in many cases, summary data concerning the nature of trading activity and commercial participation in the contract may serve as an indicator concerning whether the contract is being used on more than an occasional basis for hedging or price basing. Further, the Commission believes that summary information concerning the nature of trading volume may provide some indication as to whether the contract market is maintaining compliance with other provisions of Sections 5 and 5a of the Act.

Accordingly, the Commission proposes to institute these reporting requirements to assist in evaluating whether a Rule 1.50 request is warranted, and believes that in many cases the reports filed may serve in lieu of more extensive information which would be required under that provision. In addition, the Commission believes that information which contract markets are required to collect and summarize under this alternative will be useful in aiding contract markets to fulfill their self-regulatory responsibilities concerning low volume markets.

Proposed Rule 5.3

Proposed Commission Rule 5.3 defines "low-volume contract" as any commodity futures contract in which the trading volume in all futures listed for trading falls below 4000 contracts per calendar month during at least four of any six successive calendar months. Unless otherwise provided by the Commission, by notice to the contract market, the low volume trading period shall not include any of the months within a prior low volume trading period. Thus, unless otherwise provided for by the Commission, a contract market would not be required to file

reports concerning low volume contracts with the Commission more than twice a year.¹² Because new contracts may require a period during which the trading public becomes acquainted with the nature and the terms and conditions of the new contract, the Commission has proposed that this rule will not apply to the first full twelve months following the date of the initial trading of the contract after designation.

Proposed Rule 5.3 also provides that a contract market shall provide the Commission with a report within thirty days of the time a contract becomes a low volume contract. That report shall include: (1) a listing of the number of contracts traded and open at the end of trading for each individual future and all futures combined during each business day of the low volume period; (2) the proportion of trading, for each of the last three calendar months of the low volume trading period by floor traders and brokers, classified in terms of trading for (a) their own accounts or accounts which they control, (b) their clearing members' house accounts, (c) other members present on the floor of the exchange or accounts controlled by such members, and (d) other types of customers; (3) the identification of commercial participants holding open positions in the last three month-end dates of the low volume trading period, together with a listing of each such participant's positions in individual futures during those dates and a description of the commodity commitments or other risks, if any, which are being hedged; and (4) a statement explaining additional surveillance procedures, if any, which the contract market has instituted to monitor trade practices in the low volume contract. In the event a contract market believes that statistics from the Commission's Monthly Commitments of Traders booklet indicate that the contract is being utilized more than occasionally by commercials, it may substitute those statistics for the three month end dates in lieu of providing the

¹² In order to estimate the prospective reporting burden associated with proposed Rule 5.3 concerning low volume contracts, Commission staff analyzed the monthly trading of all futures contracts which traded during two six month periods, October 1978 through March 1979 and October 1979 through March 1980. Based on this analysis, the staff determined that had the proposed rule been effective immediately prior to either six month period, contract markets would have been required to file reports on 11 and 12 contracts, respectively, with respect to low volume contracts for each six month period. These figures do not include contracts which had traded less than twelve calendar months subsequent to initial trading nor those contracts which would have been classified as dormant under proposed Rule 5.2, either prior to or during the six month period.

identification and positions of all commercial participants. A contract market need not submit this report concerning those contracts which fall within the definition of a dormant contract contained in proposed Rule 5.2(a).

Accordingly, pursuant to the authority in Sections 5, 5a, 6 and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. §§ 7, 7a, 8 and 12a(5) (1976 and Supp. III 1979), the Commission proposes to add new Sections 5.2 and 5.3 to Part 5 of its regulations as follows:

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

* * * * *

§ 5.2 Dormant contracts.

(a) *Definitions.* For the purposes of this section the term "dormant contract" means any commodity futures contract in which no trading has occurred, in any future listed for trading in any one calendar month which follows the earlier of the twelfth calendar month subsequent to the date of the initial trading of the contract or the eighteenth calendar month after designation.

(b) Once a futures contract becomes a "dormant contract," no contract market may list such a dormant contract for additional trading months, until such time as the Commission approves, pursuant to Section 5a(12) and Rule 1.41(b), the bylaw, rule, regulation or resolution of the contract market submitted to the Commission pursuant to paragraph (c).

(c) *Bylaw, rule, regulation or resolution to list additional trading months.* Any bylaw, rule, regulation or resolution of a contract market to list additional trading months in a dormant contract shall be submitted to the Commission under Section 5a(12) of the Act and Rule 1.41(b). The Commission shall, within thirty days of receipt of such a bylaw, rule, regulation or resolution, advise the contract market of what, if any, further information is required in order to complete its Section 5a(12) review, notify the contract market that the Commission's review may take longer than thirty days, or publish for public comment in the *Federal Register* such bylaw, rule, regulation or resolution as one of major economic significance pursuant to Section 5a(12) of the Act. If the Commission does not provide any such notification to the contract market within the thirty-day period, any such bylaw, rule, regulation or resolution of a contract market to list additional trading months in a dormant contract shall be approved by the

Commission under Section 5a(12) of the Act and Commission Rule 1.41(b) and formal notification of such approval shall be provided to the contract market.

Three copies of each such submission shall be furnished to the Commission at its Washington, D.C. headquarters, and two copies shall be furnished to the regional office of the Commission having local jurisdiction over the contract market. In addition to the information required to be submitted pursuant to Rule 1.41(b), such submission shall:

(1) Contain a certification from the contract market to the Commission that the contract in which trading for additional months is to be listed is a dormant contract within the meaning of paragraph (a) of this section.

(2) Contain an economic justification for the listing of additional months in the dormant contract, which shall include an explanation of those economic conditions which have changed subsequent to the time the contract became dormant and an explanation of how any new terms and conditions which are now being proposed by the contract market would make it reasonable to expect that the contract will be used on more than an occasional basis for hedging or price basing.

§ 5.3 Low volume contracts.

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

(1) The term "low volume contract" means any commodity futures contract in which the trading volume in all futures listed for trading falls below 4000 contracts per calendar month during at least four of any six successive calendar months.

(2) The term "low volume trading period" means any period of six consecutive calendar months during which time the monthly contract volume in all futures listed for trading does not exceed 4000 contracts during at least four of such calendar months. Unless otherwise provided by the Commission, by notice to the contract market, the "low volume trading period" shall not include any of the calendar months within a prior low volume trading period. In no event, however, shall a low-volume trading period include the first twelve calendar months following the initial trading of the contract after designation.

(b) *Submission of report on low volume contract to the commission.* A contract market shall file with the Commission within thirty days of the end of a low volume trading period a report concerning that particular period unless during that period a contract has

become a dormant contract as defined in Rule 5.2(a). Three copies of this report shall be furnished to the Commission at its Washington, D.C. headquarters, and two copies shall be furnished to the regional office of the Commission having local jurisdiction over the contract market. Each report shall include the following:

(1) A listing of the number of contracts traded and positions open at the end of trading for each individual future and all futures combined for each business day during the low volume period.

(2) For the last three consecutive months during the low volume trading period, the proportion of trading during the low-volume trading period which represents the trading of floor brokers and traders as follows:

(i) trading for their own account or accounts which they control.

(ii) trading for their clearing members' house accounts.

(iii) trading for other members present on the exchange floor, or accounts controlled by such other member.

(iv) trading for any other type of account.

(3) For each of the last three month end business days during the low volume period: (a) the identification of commercial participants holding open positions and a description of the commodity commitment or other price risk, if any, those participants are hedging and (b) a listing of each such participant's positions in individual futures on those dates. Provided that, where a contract market determines that statistics concerning the positions of reportable traders as published in the Commission's Monthly Commitments of Traders booklet for the last three month end dates during the low volume period, indicate that the contract is being utilized on more than an occasional basis by commercials, it may submit those statistics in lieu of providing the identification and positions of all commercial participants as provided in paragraph (b)(3).

(4) A brief statement explaining additional surveillance procedures, if any, which the contract market has instituted to monitor trade practices in the low volume contract.

Issued in Washington, D.C., on October 23, 1980, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-34407 Filed 11-4-80; 8:45 am]

BILLING CODE 6351-01-M

17 CFR Part 5

Economic and Public Interest Requirements for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") proposes to clarify the requirements boards of trade must comply with for initial and continued designation as contract markets, under Sections 5 and 5a of the Commodity Exchange Act, 7 U.S.C. §§ 7 and 7a (1976 and Supp. III 1979) ("Act"). The proposed rule specifies four areas of responsibility for boards of trade seeking designation as contract markets, and after designation for purposes of continued compliance with the Act. First, in support of their justification of individual contract terms and conditions and their demonstration of economic purpose, boards of trade must provide profiles of the underlying cash markets. Second, boards of trade must demonstrate that the individual terms and conditions of the proposed contract can be expected to promote hedging or price basing while minimizing the potential of manipulation or other market distortions such as congestion. Third, boards of trade must demonstrate that the proposed contract complies with the public interest requirements of Section 5(g) of the Act which specifically includes an "economic purpose" test. Fourth, boards of trade are required to submit evidence which will satisfy additional public interest considerations under the Commodity Exchange Act, which shall include information pertaining to the efficacy of their rule enforcement programs and procedures to monitor price and quantity of potential deliverable supply as well as the positions of large traders. This section further provides that those boards of trade seeking designation as contract markets based on an aggregate of securities or an index thereon shall provide evidence that an economic purpose can be expected to be served by the contract consistent with the proper functioning of the market for the underlying securities. This section of the proposed rule also requires boards of trade seeking contract market designation for futures based on securities issued or guaranteed by the United States Government or any agency thereof, to submit evidence showing the effect, if any, such designations would have on the debt financing requirements of the United

States Government and the continued efficiency and integrity of the underlying market for government securities.

The Commission wishes to emphasize that the proposed rule does not impose additional requirements with respect to initial and continuing designation under the Act but rather is a codification and clarification of present requirements under the Act. Accordingly, the Commission intends that Rule 5.1, if adopted, would apply to all presently pending applications for contract market designation.

DATE: Comments must be received on or before February 1, 1981.

FOR FURTHER INFORMATION CONTACT: John P. Connolly, Chief Counsel, (202) 254-3821, or Blake Imel, Deputy Director, (202) 254-3203, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: Present Commission Guideline No. 1,¹ provides criteria which the Commission applies to determine whether a board of trade has complied with the economic and public interest requirements for contract market designation. In order for a board of trade to obtain designation as a contract market pursuant to Section 6 of the Act, it must meet those standards contained in Section 5 of the Act. See 7 U.S.C. §§ 8 (Supp. III 1979) and 7 (1976). After designation has been granted, a contract market must continue to satisfy those initial criteria and must also comply with additional requirements set forth in Section 5a of the Act. 7 U.S.C. § 7a (1976 and Supp. III 1979).

The Commission's experience in reviewing applications for initial contract market designation has demonstrated that boards of trade have not uniformly carried the evidentiary burden placed upon them by Section 5(g) of the Act to demonstrate that the proposed contract markets may reasonably be expected to serve an economic purpose and are not contrary to the public interest. Further, applications received by the Commission have not consistently demonstrated compliance of individual contract terms and conditions with the requirements of Sections 5 and 5a of the Act. Review of such applications has required substantial Commission resources for purposes of soliciting additional information from the boards of trade and other sources, with concomitant delays in review.

In addition, since the Guideline was originally promulgated in June 1975, the

Commission has received applications for contract market designations based on government debt securities, private debt securities, and equity indices. The requirements of the Guideline do not adequately reflect certain unique characteristics of futures contracts based on these instruments. Further, the enactment of Section 2(a)(8)(B) of the Commodity Exchange Act in 1978, requires the Commission to consider the effects the designation of futures contracts based on government securities will have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.

The Commission proposes to replace its present Guideline No. 1 with this proposed rule in order to (1) provide boards of trade with more specific criteria for initial and continued compliance with Sections 5 and 5a of the Act for applications for contract market designation and for all currently designated contract markets, and (2) reflect specific requirements relating to proposed futures contracts based on financial instruments and aggregates or indices of securities. In addition, the Commission believes that this proposed rule will provide a uniform procedural framework within which boards of trade shall be required to meet their burden of demonstrating, both initially and for purposes of continued designation, compliance with the Act.² Applications for contract market designation which fail to meet the requirements of the rule will be returned to the board of trade as incomplete.

Proposed Rule 5.1(a)

Section 5(g) of the Act, 7 U.S.C. § 7(g)(1976), makes it a condition of initial and continuing designation that transactions for future delivery will not be contrary to the public interest. Congress intended this requirement to include the concept of an "economic purpose" test (See pp. 9-12, *infra*). This requires that contract terms and conditions must reflect patterns of exchange terms and conditions must reflect patterns of exchange of the commodity in the underlying cash market. The Commission believes that failure to make contract terms and conditions of a futures contract conform with established patterns of trading in the underlying cash market may reduce the utility of the contract for hedging or price basing, while increasing the

¹ CCH, Comm. Fut. L. Rep. ¶6145; 40 FR 25849 (June 19, 1975).

² The Commission may, under Rule 1.50, 17 CFR 1.50 (1980), request that a contract market demonstrate that it is complying with the conditions and requirements of Sections 5 and 5a of the Act.

potential for manipulation, market congestion, and the abnormal movement of the commodity in interstate commerce.

In view of its responsibility under Section 5 of the Act and its experience in reviewing contract market designation applications, the Commission wishes to specify the information requirements pertaining to the underlying cash market for the proposed futures contract. These requirements, contained in proposed Rule 5.1(a), include information on production and consumption of the underlying commodity, modified as appropriate for financial instruments. This section of the proposed rule also requires: (1) a description of the cash marketing channels, including the manner in which price is determined at various stages and (2) a description of supporting sectors for the commodity, including, where appropriate, descriptions of underlying transport, communication and storage facilities and related financial institutions. Further, in the event that the cash market which will serve as the source of deliverable supplies differs from the entire cash market which underlies the contract's economic purpose, the board of trade shall supply information concerning both the broader and more narrow cash markets.

Proposed Rule 5.1(b)

The process of contract market designation which the Act contemplates requires the Commission to examine the individual terms and conditions of the proposed contract, particularly in light of the underlying cash market. The Act requires a board of trade to justify the individual terms and conditions of the contract in the context of the price basing and hedging function which the contract serves or can be expected to serve. A board of trade must also demonstrate that each such term and condition is designed to avoid price manipulation or distortion, market congestion, or the abnormal movement of the commodity in commerce.³ Accordingly, the Commission proposes to specify in some detail, that information which is required concerning individual contract terms and conditions.

Pursuant to proposed Rule 5.1(b), a board of trade must describe each term and condition of the proposed contract and explain why the term or condition was selected for a contract which shall be utilized for price basing or hedging and justify any departures from normal

³ See Sections 5(d) and 5a(10) of the Act, 7 U.S.C. §§ 7(d) and 7a(10) (1976).

commercial practices in the cash market for the commodity. Settlement terms and conditions, whether providing for cash settlement or delivery of the commodity, must be designed to minimize the potential for manipulation and price artificiality. A complete profile of the variants of the commodity deliverable against the contract is to be justified with respect to commercial practice and needs. This includes grades of the deliverable commodity, adjustments for non-par grades, and permitted deviations in packaging and composition of the delivery unit. Other aspects of the contract which must be justified include those pertaining to contract size, geographic delivery points, specified locational differentials, regular delivery facilities, delivery cost allocation, certification procedures, delivery instruments, delivery months, and price ranges for daily trading.⁴

Proposed Rule 5.1(c)

The legislative history of the Act makes clear that Section 5(g) of the Act includes the concept of an "economic purpose" test subject to the final test of the public interest. Thus, it is not sufficient under the Act that a proposed contract for future delivery represent merely an attractive vehicle for speculative activity.⁵

The Commission has interpreted the economic purpose test as follows:

(1) The prices involved in transactions for future delivery in the commodity for which such designation is sought are, or reasonably can be expected to be, generally quoted and disseminated as a basis for determining prices to producers, processors, merchants, or consumers of such commodity or the products or byproducts thereof, or

(2) Such transactions are, or reasonably can be expected to be, utilized by producers, processors, merchants, or consumers engaged in handling such commodity (including the products, byproducts, or source commodity thereof) in interstate (including foreign) commerce as a means of hedging themselves against possible loss through fluctuations in price.⁶

Under present Guideline No. 1, in order to meet the "economic purpose test" at the time of initial designation, a

⁴ See 45 FR 55469, (August 20, 1980).

⁵ See S. Rep. No. 93-1194, 93rd Cong., 2d Sess. 36 (1974); H. Rep. No. 93-975, 93rd Cong., 2d Sess. 29 (1974).

⁶ See, CCH Comm. Fut. L. Rep. ¶6145, Guideline on Economic and Public Interest Requirements for Contract Market Designation. With respect to these requirements as they concern hedging, boards of trade should use the definition of bona fide hedging contained in paragraph 1 of Section 1.3(z) of the Commission's rules.

board of trade must establish "that something more than occasional use of the contract for hedging or price basing exists, or can reasonably be expected to exist."⁷ Under the proposed rule, in describing prospective pricing and hedging uses of the proposed contract, the board of trade must consider the salient characteristics of the cash market (including its institutions and participants) as described in Rule 5.1(a), and the influence on the pricing and hedging use of the contract of the specific contract terms and conditions described in Rule 5.1(b). The Commission believes that these additional requirements are necessary to ensure that boards of trade, in submitting information pertaining to economic purpose, specifically address the nature of the underlying cash market and its institutions, as well as the manner in which the terms and conditions of the contract relate to the pricing and hedging needs of that particular industry.

Proposed Rule 5.1(c) also requires that in submitting materials on economic purpose, a board of trade must consider currently designated contract markets with similar commodity specifications. Under this provision, an exchange would be required to describe those particular terms or conditions of the proposed contract or the exchange's institutional features which make it reasonable to expect that the proposed contract will meet the standards of the economic purpose test. In reviewing these materials submitted for contracts similar to those currently designated, the Commission will also consider its responsibility under Section 15 of the Act.⁸

The Commission also considered as a requirement with respect to new contract market designation applications, that boards of trade provide quantitative standards which would provide the future basis for assessing whether the contract served an economic purpose. These standards concerning economic purpose would have applied only after an initial introductory period of trading and would have subsumed both volume of trading activity and the extent of the contract's use for pricing or hedging. However, in view of its concurrent proposal concerning requirements for dormant and low volume contracts,

⁷ CCH Comm. Fut. L. Rep. ¶6145, at p. 6075.

⁸ Section 15 of the Act provides in pertinent part that: "The Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in issuing any order . . ."

(published elsewhere in this issue), the Commission has determined not to propose, at this time, that boards of trade provide quantitative measures concerning a prospective contract's fulfillment of the economic purpose requirements.

Further, when a contract market begins to accumulate experience with a futures contract, it has a continuing responsibility to ensure that the contract retains its economic purpose. With respect to this requirement for continuing designation, the current Guideline No. 1 requires (in summary) that a board of trade establish that "something more than occasional use of the contract for pricing or hedging exists. . . ." ⁹ Proposed Rule 5.1 makes this requirement more specific by requiring that as a matter of justifying its continued designation, a contract market shall evaluate the trading of the contract, and document that the contract is used for price basing. In addition, a contract market would be required to evaluate the extent to which commercial participation in the contract constitutes hedging. These requirements, of course, would be applicable to a Commission request that a contract market demonstrate its continuing compliance with Section 5(g) of the Act pursuant to Rule 1.50. 17 C.F.R. 1.50 (1980).

Proposed Rule 5.1(d)

Part C of present Guideline No. 1 states that a board of trade may submit information relevant to those aspects of the public interest standard of Section 5(g) not explicitly covered in the Guideline and affirm that futures transactions in the commodity for which designation is sought are not, or are not reasonably expected to be, contrary to the public interest. The Commission proposes in this section to provide explicit criteria which a board of trade must comply with in order to affirm that the contract, as a matter of initial and continuing designation, will not be contrary to the public interest.

With respect to proposed Rule 5.1(d)(1), a board of trade would be required to demonstrate, with relevant evidence, the adequacy of its affirmative rule enforcement program—particularly its surveillance capability—for the contracts for which it is currently designated as a contract market. Such evidence shall include a description of any changes in its affirmative rule enforcement program introduced since the last Commission rule enforcement review. The Commission shall consider, as one aspect of board of trade's good faith attempt to comply with the public

interest test, its demonstration of compliance with Commission Rule 1.51 ¹⁰ and Guideline No. 2. ¹¹ The Commission is of the view that it would be contrary to the public interest to designate boards of trade as additional contract markets, where information available to the Commission, including findings of the staff during the course of its periodic rule enforcement reviews, demonstrates significant deficiencies in such enforcement programs for currently designated contract markets. Therefore, the Commission wishes to make clear that it will designate additional contract markets for an existing board of trade only where it determines that a board of trade is adhering to the requirement that it maintain an affirmative rule enforcement program for its currently designated contract markets.

With respect to proposed Rule 5.1(d)(2), the Commission is proposing that a board of trade be required to demonstrate the flexibility of its rule enforcement program—particularly its surveillance capability—to respond to unique characteristics of commodities which are the subject of proposed futures contracts. To achieve this goal, a board of trade shall demonstrate that it has designed its rule enforcement and surveillance program to monitor adequately the specific proposed futures contract.

Proposed Rule 5.1(d)(3) relates to applications for contract market designation based on an aggregate of securities or an index thereon. Section 2(a)(8)(B)(i) of the Act, 7 U.S.C. § 4a(g)(2)(i) (Supp. III 1979), requires the

¹⁰ Commission Rule 1.51, 17 CFR § 1.51 (1980), provides for a contract market program for enforcement. That rule states in part that: "(a) each contract market shall use due diligence in maintaining a continuing affirmative action program to secure compliance with all the provisions of Sections 5, 5a, 5b, 6(a), 6b, 8a(7), 8a(9), and 8(c) of the Act (7 U.S.C. 7, 7a, 7b, 8, 13a, 12a(7), 12a(9), and 12(c)), and with all the contract markets' bylaws, rules, regulations and resolutions which such contract market is required by the Act to enforce." The rule then provides for specific requirements for such a contract market rule enforcement program. Note that under Section 5a(8) of the Act, each board of trade is required to enforce all bylaws, rules, regulations, and resolutions, relating to terms and conditions of contracts of sale to be executed on a contract market or relate to other trading requirements which have been approved by the Commission pursuant to Section 5a(12) of the Act. Moreover, Commission Rule 1.53 requires each contract market to enforce each bylaw, rule, regulation and resolution made or issued by it which was in effect as of July 18, 1975 and which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements, unless such bylaw, rule, regulation and resolution has been disapproved by the Commission pursuant to Section 5a(12) of the Act.

¹¹ Commission Guideline No. 2 (CCH Comm. Fut. L. Rep. ¶6430) expands upon the requirements of Rule 1.51.

Commission to maintain communications with the Department of the Treasury the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission for the purposes of keeping those agencies advised of activities relating to their areas of responsibilities and for considering the relationship between the volume and nature of investment and trading on contracts of sale of a commodity for future delivery and in securities and financial instruments under the jurisdiction of such agencies. Accordingly, the Commission will request comments from the Securities and Exchange Commission on any proposed contracts based on an aggregate or index of securities which are regulated by the Securities and Exchange Commission, and consider any comments received. Therefore, a board of trade applying for designation of a futures contract based on such an aggregate of index shall provide evidence that an economic purpose can be expected to be served by the contract consistent with the proper functioning of the market for the underlying securities. ¹²

With respect to proposed Rule 5.1(d)(4), Section 2(a)(8)(B)(ii) of the Act, 7 U.S.C. 4a(g)(2)(ii) (Supp. III 1979), requires that when a board of trade applies for designation as a contract market involving transactions for future delivery of any security issued or guaranteed by the United States or any agency thereof, the Commission must deliver a copy of the application to the Department of Treasury and the Board of Governors of the Federal Reserve System. Further, the Commission may not designate a board of trade as a contract market based on such an application until 45 days after the date the Commission delivers the application to those agencies or until such time as the Commission receives the comments from each of the agencies on the application, whichever period is shorter. In addition, the Commission is required

¹² As the House of Representatives stated during the Commission's 1978 reauthorization: " . . . It appears at least theoretically possible that futures contracts may be developed concerning an aggregate of securities or an index thereon that may reasonably be expected to serve a valid economic function. The Committee expects, however, that the Commission will proceed with extreme caution in its consideration and designation of any contract market to trade a futures contract involving securities and that it will satisfy itself that an economic purpose can be expected to be served by the contract consistent with the proper functioning of the market for the underlying securities. The Commission has assured the Committee that it will proceed with caution in considering any such designation application and will solicit the views of the Securities and Exchange Commission and carefully consider its views before proceeding." H.R. Rep. No. 95-1181, 95th Cong., 2d Sess. 14 (1978).

⁹ CCH, Comm. Fut. L. Rep. ¶6145, at p. 6075.

to consider all comments from those agencies and include them in the public record of designation proceedings and further consider the effect any decision on a designation application may have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for Government securities.

This statutory provision makes clear that the effects of a contract market designation on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for Government securities must be considered by the Commission prior to designation of any such contract. Accordingly, the Commission is proposing that any board of trade seeking designation as a contract market based on any security issued or guaranteed by the United States Government, or any agency thereof, shall provide the Commission, *inter alia*, with specific evidence concerning the effects, if any, that the proposed contract will have on the "debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for Government securities."

Accordingly, pursuant to the authority in Sections 2(a), 5, 5a, 6 and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 2(a), 7, 7a, 8 and 12a(5) (1976 and Supp. III 1979), the Commission proposes to add a new Part 5 to Chapter I of Title 17 of the CFR as follows:

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

* * * * *

§ 5.1 Economic and public interest requirements for contract market designation.

For purposes of a board of trade seeking designation as a contract market and thereafter for the purpose of demonstrating continued compliance with the requirements of Sections 5 and 5a of the Act, the following shall be provided to the Commission.

(a) *Analysis of the Cash Market.* A board of trade shall submit with its application an analysis of the cash market for the commodity on which the futures contract is based. For purposes of this section, the term cash market includes all aspects of the spot and forward markets in which the commodity underlying the futures contract is merchandised and for which the futures contract serves a hedging or price basing function. The following information shall be furnished for both

the cash market in its entirety and (if different from the entire cash market) that segment of the cash market which is or will be the source of supplies for future delivery:

(1) Production of the underlying commodity, including, as appropriate, geographical locations and seasonal patterns in the case of tangible commodities and scheduled issuances in the case of financial instruments.

(2) Consumption of the underlying commodity, including as appropriate, geographic locations and seasonal patterns of intermediate and ultimate consumption in the case of tangible commodities.

(3) The nature and structure of the cash marketing channels, including the nature and number of marketing institutions, the nature of the forward contracting market, and the manner in which the price of the commodity is determined at various stages in its marketing. This information shall also include a description of the degree and nature of both vertical and horizontal integration within the industries in which the commodity is produced and consumed.

(4) As appropriate, the nature and structure of the transport, communication, storage, and financing sectors which support the commodity underlying the proposed contract for future delivery.

(5) Information provided by the board of trade pursuant to paragraph (a) shall include statistical data where applicable and available. Such data shall cover a period of time sufficient to show accurately historical patterns of production, consumption and exchange of the commodity. In the absence of a justification for providing data from a shorter period, at least five (5) years of such data should be provided. If the board of trade cannot, through reasonable effort, obtain sufficient data, interviews with or statements by persons knowledgeable concerning the cash market may be used to supplement or, if necessary, substitute for quantitative information.

(b) *Justification of Individual Contract Terms and Conditions.* A board of trade shall submit an analysis and justification of the individual terms and conditions of the futures contract. In providing the justification for each term and condition, the board of trade should supply statistical data wherever applicable. Such data should normally cover a period of time sufficient to show accurately the historical pattern of conditions in the cash market. At least 5 years of data should be provided, unless a reasonable explanation can be given for using a shorter period. If quantitative

information is not readily available to support the justification for a contract term or condition, the board of trade is expected to attempt to obtain or develop such data rather than submit a justification not supported by facts. Interviews with persons knowledgeable concerning the particular term or condition may be used to supplement or, if necessary, substitute for statistical data. The justification submitted by a board of trade concerning each contract term or condition shall include:

(1) The reasons the term or condition was selected for the contract and how that term or condition supports utilization of the contract for price-basing or hedging.

(2) Evidence of conformity with current commercial practices for the underlying cash commodity; if the term or condition is not in conformity, the reason for the variance and why the contract term or condition is necessary or appropriate in the futures contract.

(3) Evidence that the contract terms or conditions will provide for a deliverable supply which will not be conducive to price manipulation or distortion and that such a supply can reasonably be expected to be available to the short trader and saleable by the long trader at its market value in normal cash marketing channels.

(4) The justification of each contract term or condition shall also include, where applicable, the following:

(i) Complete specification of commodity characteristics for par delivery, such as grade, class, weight, coupon rate, maturity, rating, and issuer. If par delivery includes a range of grades and classes, the effects of such differences in the deliverable supply on the contract's hedging and price-basing functions must be described.

(ii) A description of the non-par commodities, if any, deliverable on the proposed contract. The board of trade shall also provide the economic basis for the premiums and discounts on such deliveries. For futures contracts based on debt securities, this shall include an economic justification of the formula to be used for the evaluation of non par instruments.

(iii) Size of contract unit. The board of trade shall include, where relevant, information concerning the typical commercial unit and the rationale for any proposed deviation therefrom. The usual means of transportation for the commodity, the size of loads normally carried by such means, and if a storable commodity, the size of the unit normally handled by commercial storage facilities, where applicable, shall be addressed by the board of trade.

(iv) Permissible delivery pack or composition of delivery units (e.g., 30 dozen cases of eggs, bonds of the same issue, GNMA certificates from the same pool). Any restrictions on the composition of the delivery unit should be described by the board of trade.

(v) Inspection and certification procedures for the verification of delivery eligibility. For perishable commodities, a board of trade shall state the duration of the inspection certificate and any discounts applied to deliveries of a given age.

(vi) Delivery points, which shall include, where applicable, for each point: (A) the level of deliverable supplies normally available, including, the seasonal distribution of such supplies, (B) the nature of the cash market at the delivery point (e.g., auction market, buying station or export terminal), (C) the number of major buyers and sellers, (D) normal commercial practices in establishing cash commodity values, and (E) the availability of published cash prices reflecting the value of the deliverable commodity.

(vii) Type of delivery facility, such as warehouse or elevator for agricultural commodities, bank or vault depository for precious metals, and wire transfer for financial instruments. Information submitted by the board of trade shall include for each delivery point, where relevant, a description of: (A) the number and total capacity of facilities meeting contract requirements, (B) the proportion of such capacity expected to be available for short traders who may wish to make delivery against futures contracts and seasonal changes in such proportions, and (C) the extent to which ownership and control of such facilities is dispersed or concentrated.

(viii) Locational differentials for delivery points, where applicable. A board of trade shall include its reasons for selecting the par point or points and the rationale for discounts or premiums applying to non-par delivery points, including any departure from commercial locational differentials prevailing in the cash commodity market.

(ix) Delivery instrument, such as a warehouse receipt, bill of lading, shipping certificate, demand certificate, or collateralized depository receipt, and the conditions under which such instrument is negotiable.

(x) Transportation terms at point of delivery, such as FOB, CIF, proportional rail billing and freight paid to another destination.

(xi) Contract delivery months. The board of trade shall specify the delivery months and in the case of seasonal

commodities, shall describe the relationship of each future delivery month to seasonal variations in deliverable supplies, availability of warehouse space, transportation facilities, cash market activity, and any other factors which may affect the viability of each such future. The board of trade's justification shall also consider the delivery months for existing futures contracts which draw on the same deliverable supply.

(xii) Provisions for payment of costs in making and taking delivery, as they apply to the longs and the shorts. The board of trade shall include a detailed description of costs, such as inspection, assay, certification, warehouse charges and rail charges.

(xiii) Minimum price fluctuations. A board of trade should describe the manner in which the commodity underlying a proposed contract is normally quoted in order to demonstrate that the minimum contract price change proposed is not inconsistent with accepted cash-market practices.

(xiv) Maximum price fluctuations. A board of trade imposing restrictions on contract price movements shall address whether such restrictions will significantly impair the contract's hedging or price-basing functions.

(5) In the case of contracts where cash settlements may serve as an alternative to physical delivery, information submitted by the board of trade pursuant to this section must include evidence that the cash settlement provisions will assure settlement of the contract at an economic value and will not be subject to manipulation, and also include:

(i) an analysis of the price series upon which such settlement will be based, including the series' reliability, acceptability, public availability and timeliness.

(ii) an analysis of the potential for manipulation of the cash-price series.

(c) *Economic Purpose Test.* As a condition of initial and continued designation, a board of trade must demonstrate that the contract meets the economic purpose test. In order to meet the economic purpose test a board of trade shall demonstrate that:

(1) The prices involved in transactions for future delivery in the commodity are, or reasonably can be expected to be, generally quoted and disseminated as a basis for determining prices to producers, processors, merchants, or consumers of such commodity or the products or byproducts thereof, or

(2) Such transactions are, or reasonably can be expected to be, utilized by producers, processors, merchants, or consumers engaged in

handling such commodity (including the products, byproducts or source commodity thereof) in interstate (including foreign) commerce as a means of hedging themselves against possible loss through fluctuations in price.

(3) For purposes of paragraph (c), the term hedging shall mean bona fide hedging transactions and positions as defined in § 1.3(z)(1) of this chapter.

(4) *Initial Designation.* To meet the economic purpose test at the time of initial designation, a board of trade must demonstrate that it is reasonable to expect the contract, as specified, to be used for hedging and/or price basing by providing an analysis of the potential price basing and hedging uses of the contract which shall include consideration of:

(i) The salient characteristics of the cash market, including its institutions as participants, as described pursuant to paragraph (a) of this section.

(ii) The intended price basing or hedging characteristics of the specific contract terms and conditions, as described pursuant to paragraphs (b) of this section. If a principal commercial use of the contract is expected to be hedging of commodities other than that for which designation is sought (cross hedging) the board of trade shall supply data which indicates that such use of the contract would constitute appreciable risk reduction.

(iii) The existence and trading activity of any currently designated contract market with similar commodity specifications. A board of trade shall describe those particular terms or conditions of the proposed contract or the board of trade's institutional features which make it reasonable to expect that the proposed contract will achieve the standards of the economic purpose test.

(iv) Statements from, or reports of interviews with potential users of the contract which convey specifically the manner and circumstances under which these persons may be expected to utilize the contract for pricing or hedging.

(5) *Continuing Designation.* To justify its continuing designation under the economic purpose requirement, a board of trade designated as a contract market must demonstrate that trading in the contract for which it is designated has, in fact, served a hedging or price basing function on more than an occasional basis. Such a demonstration shall include:

(i) An evaluation of the actual trading experience in the contract in terms of commercial usage and its use for price basing.

(ii) An evaluation of the extent to which commercial participation in the contract constitutes hedging.

(d) *Affirmation of Public Interest.* A board of trade shall submit evidence pertaining to the public interest standard contained in Section 5(g) of the Act, which shall affirm that futures transactions in the commodity for which designation is sought will not be contrary to the public interest. The following, although not inclusive of all relevant evidence which a board of trade may submit to affirm the public interest requirements, shall be provided by each board of trade to the Commission:

(1) Each board of trade must demonstrate compliance with Commission Rule 1.51 and Guideline No. 2, with respect to those contract markets for which it has been designated. Accordingly, a board of trade shall demonstrate the efficacy of its rule enforcement program with respect to contracts for which it is currently designated and describe any changes in its affirmative rule enforcement program introduced since the last rule enforcement review conducted by the Commission.

(2) Each board of trade shall describe those specific rule enforcement programs adopted to address unique problems raised by the particular futures contract. Accordingly, a board of trade shall demonstrate that a flexible surveillance program is in place to deal effectively with the unique aspects of those commodities which are the subject of the futures contracts. Such information shall include:

(i) The manner in which the board of trade presently monitors or proposes to monitor significant surveillance factors pertaining to the underlying commodity, such as cash prices, deliverable supplies, and the positions of large traders. Such information shall include:

(A) The sources the board of trade uses to determine cash prices of the underlying commodity.

(B) The methodology employed by the board of trade to monitor the availability of deliverable supply.

(C) The extent of coordination with other contract markets offering futures contracts which draw on the same deliverable supplies.

(D) The specific modifications, if any, the board of trade has effected to its market surveillance and rule enforcement programs to ensure the effective enforcement of its existing rules and those proposed under the application for contract market designation.

(3) With respect to futures contracts based on an aggregate of securities or

an index thereon, each board of trade shall demonstrate that an economic purpose can be expected to be served by the proposed contract consistent with the proper functioning of the market for the underlying securities. Each such submission shall include: an analysis of the relationships between the volume and nature of investment and trading in contracts of sale of a commodity for future delivery and in securities under the jurisdiction of the Securities and Exchange Commission.

(4) With respect to futures contracts based on any security issued or guaranteed by the United States or any agency thereof, a board of trade shall provide evidence concerning those public interest considerations described in Section 2(a)(8)(B) of the Commodity Exchange Act. Such a demonstration that the contract is not contrary to the public interest shall include, among other things, evidence of the expected effect of the proposed contract on:

(i) The debt financing requirements of the United States Government.

(ii) The continued efficiency and integrity of the underlying market for government securities.

Issued in Washington, D.C., on October 23, 1980, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 250

[Release No. 35-21767; File No. S7-862]

Allocation of Consolidated Federal Income Tax Liability by Registered Holding Companies and Their Subsidiaries

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission is publishing for comment an amendment to Rule 45 pertaining to the methods by which registered holding companies and their subsidiaries may allocate consolidated federal income taxes. The amendment deletes paragraph (b)(6) of Rule 45, which now provides an exception from the application requirements of Rule 45(a) in case of income tax allocations which are made by any one of three approved methods, and adds paragraph (c), which supersedes paragraph (b)(6) and which permits additional methods for

allocating the consolidated income tax liability.

DATE: Comments must be received on or before December 31, 1980.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-862.

All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Grant G. Guthrie, Associate Director, (202) 523-5156, Division of Corporate Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 45(b)(6) is a conditional general authorization by rule for the members of a holding company system to join in a consolidated federal income tax return without applying each year, under Rule 45(a), for a specific order authorizing such action. The authorization is required by Section 12(b) of the Act. The rule's substantive function is to specify the manner of allocating the joint tax liability among the members of the system, in accordance with our responsibility under Section 12(b) to ensure that such intercompany agreements be on terms which "the Commission deems necessary or appropriate in the public interest or the protection of investors or consumers."

Exploitation of utility companies by holding companies through asserted misallocation of consolidated tax return benefits was among the abuses examined in the investigations underlying the enactment of the Act (Senate Doc. 92, Part 72A, 70th Congress, 1st Sess., 1930 (pp. 477-482)). Since the initial evidence of the practices was followed almost immediately in 1932 by abolition of the consolidated return privilege altogether, this subject did not arise until that privilege was restored in 1941. Rule 45(b)(6) was adopted forthwith (HCAR No. 2902, July 23, 1941). It was last revised (HCAR No. 12776, January 12, 1955) after the enactment of the Internal Revenue Code of 1954.

The Rule, as revised in 1955, has proven, in recent years, to be incomplete in one area. The case in which one or more operating companies in a system suffers a loss is not explicitly dealt with. The general terms of the rule are consistent with divergent treatments of this contingency.

The most significant and recurrent source of such losses, as computed under the tax laws, are subsidiaries organized for oil and gas exploration, since that activity is characterized by large initial and immediately deductible costs, while the production of oil and gas, and taxable income, occurs significantly later. And fuel supply problems have led to quite material investments in this area in recent years. The difficulty is not, however, limited to that situation. Operating utility companies are not wholly immune to loss years. Cf. *Alabama Power Company* (HCAR No. 21023, April 30, 1979).

We have dealt with this deficiency through declarations and orders authorizing specific allocations under Rule 45(a), the alternative to Rule 45(b)(6). Although such orders, in a sense, involved deviations from the standard conditions prescribed by the general rule, it would be more accurate to say that they resolved the ambiguity of Rule 45(b)(6) as applied to factual situations not anticipated when it was promulgated. Since these deviations have been granted regularly and consistently in cases involving fundamentally identical facts which appear likely to recur, it is time to incorporate the principles developed into the rule itself.

The proposed revised rule will be renumbered Rule 45(c), in recognition of its discrete subject and length. The proposed rule will delete the incorporation by reference of two subsections of the Internal Revenue Code of 1954. It is unnecessary for our rule to specify that a tax allocation agreement must be permitted by the underlying tax laws. While the simple formulae specified by Section 1552(a) of the Internal Revenue Code are quite suitable for purposes of the Act, they serve different functions under the two statutes. The present rule, like the revision proposed, restricts the substantive discretion permitted by the tax law. Accordingly, we have incorporated the useful portions of these subsections in the text of the proposed rule, facilitating statement of the limitations imposed under the Act.

The rule deals with the allocation of the actual aggregate tax liability of the consolidated group for each tax year among the members of the consolidated group. The tax initially determined by the consolidated tax return may subsequently be revised, through Internal Revenue Service audit or otherwise. Such changes must also be allocated when determined, in the same manner as though the adjustments on

which they are based had formed part of the original consolidated return.

Since there are significant divergencies between methods of computing income for financial reporting purposes and those employed in the tax laws, it must be emphasized that the rule applies only to allocation of the actual current tax liability. Application of such modifications as deferred taxes, required by financial reporting standards, is independent of the rule, although the accounting should be consistent with the results of the underlying tax allocation.

The basic deficiency observed in the present rule was that both of the allocation methods incorporated from the 1954 Internal Revenue Code have been interpreted as limiting the allocation of the consolidated tax liability to those members of the group having taxable income for the year, excluding those having a negative income for tax purposes. This means that the consolidated taxable income will always be less than the combined taxable income of those members of the group participating in the allocation and that the group members whose excess deductions create the reduction in the consolidated tax are barred from sharing in the saving.

The corporate relationships required by the Act assure that the deductible corporate expenses of the holding company itself will always create a consolidated tax saving, since Section 13(a) of the Act precludes such expenses being passed on to the subsidiaries, through service charge or contract, so as to transform them into corporate deductions of the subsidiaries. In light of the legislative history referred to, an expense reimbursement of the holding company, in the guise of a tax allocation, would seem inconsistent with Section 13(a). The exclusion in our earlier rule of the holding company from sharing in consolidated return savings was intentional and will continue. These considerations do not apply to other companies in the group that incur losses.

Our 1955 rule did address one aspect of the consolidated return problem, the tax loss carryover, by the proviso

(i) That the tax allocated to each subsidiary company shall not exceed the amount of tax of such company based on a separate return computed as if such company had *always* filed its tax returns on a separate return basis. (emphasis supplied)

For tax purposes, of course, the use of the loss of a member of the consolidated group currently in the consolidated return leaves no loss to be applied to other years. Without the proviso, each subsidiary would be charged on the

basis of its current income, if any, each year, and a company incurring a loss would receive no tax benefits, either currently or in the future. The proviso preserved a possibility of future recoupment.

When the Internal Revenue Service dealt with this subject in 1966, Regulation § 1.1502-33(d), it adopted two alternative standard methods.¹ The first, (i), is essentially that specified by the proviso of our rule. The second, (ii), would in substance permit a current settlement by crediting the loss company with a share of the tax benefits it provided in the current year, rather than deferring such settlement through the internal carry forward computation. This second alternative is essentially the method we also have adopted in the series of Rule 45(a) orders referred to above.

The investment tax credit, an important addition to the tax law subsequent to the adoption of our present rule, is similar in significant respects to the tax loss. It is clearly identifiable to a particular member of the group, its incidence has no necessary relationship to current income, and its use in the consolidated return precludes a carryover by the company entitled to it. Other matters requiring clarification include the allocation of items, such as capital gains or losses, involving differences in tax rates or other special limitations.

Under the Act, each company in a registered system is, in important respects, expected and required to be a separate economic entity. While the Act effectively precludes the existence of minority common stock interests in the subsidiary companies, and thus eliminates potential conflict of interest, it deals principally with utility companies, whose rates are separately regulated under procedures which assign material weight to taxes as part of the cost of service. Uncompensated use of tax benefits intended for one utility company, to reduce the costs of another utility company, permanently assigns those benefits to an entirely different group of consumers, based solely on the fortuity of the common ownership of the utility companies and the relative timing of their respective periods of prosperity or distress.

The integration requirements of Section 11(b) of the Act limit registered systems to a single integrated utility system and businesses incidental thereto. The consolidated tax returns of such systems, accordingly, will not

¹ Regulation 1.1502-33(d)(iii) provides, as a third alternative, any other method approved by the Commissioner of Internal Revenue.

include, to any significant degree, the fruits of diverse and unrelated enterprises.² The service at cost requirement of Section 13(b) means that the related businesses in the system are not independent profit centers. They are regulated, under Sections 13 and 15 of the Act, as sources of services and goods required by the associate public utility companies. Their taxes, positive or negative, are elements of the cost at which their services are rendered.

In this context, it is necessary that a current, reasonable and unequivocal annual determination of each member company's tax be established. The proposed rule makes explicit the need for the written agreement contemplated by the tax laws. In view of the common control of all members of the consolidation group, the rule will continue to specify, as conditions, the principal terms of the allocation. It does not preclude the inclusion of further or more detailed terms, within the scope of the conditions prescribed.

While tax agreements inconsistent with the rule may, in principle, still be applied for under Rule 45(a), such action is not expected. It would be justified only in truly unforeseen and exceptional circumstances.

The proposed rule has been drawn to preserve the alternative specific allocation methods available under the present rule, or under Section 1552 of the Internal Revenue Code and the regulations thereunder. The registered systems and other interested parties are particularly invited to comment on which of these methods they, in fact, use or wish to use, the relevant practical differences among them in the context of the kind of companies subject to the Act, and whether the number of alternatives should be curtailed.

Text of the Proposed Rule

It is proposed to amend 17 CFR Part 250 by deleting paragraph (b)(6) of § 250.45 and adding thereto a new paragraph (c), as follows:

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1950

§ 250.45 Loans, extensions of credit, donations and capital contributions to associate companies.

* * * * *

²The possibility of some unrelated income or expenses cannot be rigorously excluded since changes in circumstances and other fortuities can result in such income. For example, a utility company's research and development may produce discoveries of commercial value. Surplus property may have other uses. And mineral reserves can include by-products. But such factors are also incidental and usually modest.

(b) * * *

(6) [Removed]

(c) The declaration requirement of paragraph (a) of this section shall not apply to the filing of a consolidated tax return by the eligible associate companies in a registered holding company system, or to the execution or performance of the agreement referred to herein, if such consolidated tax return is filed pursuant to a tax agreement, in writing, among the associate companies participating therein for a term of one or more full tax years, and the agreement provides for allocation among such associate companies of the liabilities and benefits arising from such consolidated tax return for each full tax year in a manner not inconsistent with the following conditions:

(1) Definitions: "Consolidated tax" is the aggregate tax liability for a tax year, being the tax shown on the consolidated return and any adjustments thereto thereafter determined.

"Corporate taxable income" is the income or loss of an associate company for a tax year, computed as though such company had filed a separate return on the same basis as used in the consolidated return, except that dividend income from associate companies shall be disregarded, and other intercompany transactions, eliminated in consolidation, shall be given appropriate effect.

"Separate return tax" is the hypothetical tax of an associate company on its corporate taxable income for a tax year, adjusted to allow for any carryovers or carrybacks from other tax years if their unavailability is due to their inconsistent use in a consolidated return for another year. Carryovers or carrybacks shall not be so taken into account if the associate company has received a corporate tax credit therefor. "Corporate tax credit" is a hypothetical negative tax of an associate company for a tax year, equal to the amount by which the consolidated tax is reduced through inclusion of a corporate taxable loss, or other tax benefit of such associate company in the consolidated tax return.

(2) The consolidated tax shall be apportioned to the several members of the group in proportion to (i) the corporate taxable income of each such member, or (ii) the separate return tax of each such member, but the tax apportioned to any subsidiary shall not exceed the separate return tax of such subsidiary.

(3) The tax agreement shall provide for appropriate and equitable adjustment of the allocation specified

under paragraph (c)(2)(i) of this section if the sum of the corporate taxable incomes of all members of the group in any taxable year differs from the consolidated taxable income because of intercompany transactions excluded from the consolidated return. It shall provide for appropriate and equitable adjustment of the allocation specified under paragraph (c)(2)(ii) of this section to the extent that the consolidated tax and separate return tax for any year include material items taxed at different rates or involving other special benefits or limitations. Such adjustment provisions will be directed to allocating to the individual members of the group the material effects of any particular features of the tax law applicable to them.

(4) The tax agreement may exclude from the allocation under paragraph (c)(2)(i) of this section subsidiary companies not having a corporate taxable income for the year being allocated, or under paragraph (c)(2)(ii) of this section subsidiary companies not having a separate return tax for the year being allocated. If the agreement so elects, it shall make appropriate and equitable provision for preservation to each of the subsidiary companies so excluded of the equivalent of any rights which such subsidiary company would have had, under the applicable tax law, had it filed a separate return, to use in other years any loss or credit availed of by the group through the consolidated return. With respect to carryover rights, such provisions will normally consist of recognition of the carryover in future allocations by reducing the consolidated tax allocation for the subsequent year to the subsidiary entitled to the benefit, and by charging the excess to the companies which had benefited by the prior deduction or credit. In case of carrybacks, the subsidiary excluded would normally be entitled to immediate payment from the members receiving a tax reduction through its use, in the consolidated return, (of the refund foregone).

(5) The agreement may, instead of excluding members as provided in paragraph (c)(4) of this section, include all members of the group in the tax allocation, recognizing negative corporate income or negative corporate tax, according to the allocation method chosen. If the agreement so provides, those companies with a positive allocation will pay the amount allocated and those subsidiary companies with a negative allocation will receive current payment from this fund. Such payments for tax benefits contributed to the

consolidated return shall be accounted for in the same manner as tax refunds, provided that any such payment received by a subsidiary company which is not a public utility company shall be applied to reduce the costs incurred by such company for purposes of determining the costs of goods or services supplied by such company to associate companies under section 13(b) of the Act in the manner prescribed by the Commission by rule or order under that section.

(6) The tax agreement for each taxable year shall be filed as an exhibit to the system's annual report on Form U5S (§ 259.5s of this chapter) for the previous taxable year. The initial filing upon the effective date of this amendment shall be made as an amendment to the last Form U5S filed. If an existing tax agreement is merely renewed or amended, prior filings may be incorporated by reference.

Statutory Authority

The Commission hereby publishes for comment proposed amendments to Rule 45 pursuant to the provision of Sections 12(b) and 20(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.)

By the Commission.
October 29, 1980.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-34502 Filed 11-4-80; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-884]

Proposed Use of Materials Bulletin No. 70a Particleboard Interior Stair Treads and Certification Program

Correction

In FR Doc 80-33331, appearing at page 72688 in the issue of Monday, November 3, 1980, make the following correction:

On page 72688, third column, under **DATES**, the Comment due date should read "January 2, 1981."

BILLING CODE 1505-01-M

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-870]

Community Development Block Grants: Subpart F—Small Cities Program

In FR Doc. 80-34152, appearing at page 72691, in the issue of Monday, November 3, 1980, make the following correction:

On page 72691, first column the **COMMENTS DUE DATE** should read "January 2, 1981."

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-48-80]

Tax Deposits and Refunds Based on the Net Income Limitation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of proposed rulemaking by cross-reference to amended temporary regulations.

SUMMARY: In the Rules and Regulations portion of this *Federal Register*, the Internal Revenue Service is issuing temporary excise tax regulations relating to title I of the Crude Oil Windfall Profit Tax Act of 1980. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 5, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-48-80), Washington, DC 20224.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING. Before adoption of the final 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*.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta of the Legislation and Regulations Division, Office of the Chief

Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION: The temporary regulations in the Rules and Regulations portion of this issue of the *Federal Register* amend part 150 of title 26 of the Code of Federal Regulations. The final regulations, which are proposed to be based on the temporary regulations, would amend 26 CFR Part 51.

For the text of the temporary regulations, see FR Doc. 80-34427 (T.D. 7732) published in the Rules and Regulations portion of this issue of the *Federal Register*.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-34426 Filed 10-31-80; 11:59 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 884 and 948

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of intent and proposed rule.

SUMMARY: On October 29, 1980, the State of West Virginia submitted to OSM its proposed abandoned mine land reclamation plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the State plan.

DATES: Written comments on the plan must be received on or before 5:00 p.m., January 3, 1981. Written comments on whether OSM should hold a public hearing on the plan must be received by 5:00 p.m., November 10, 1980. A public hearing will be held on December 4, 1980 at 10:00 a.m. and will continue until all discussions have been completed. The hearing may be canceled, as discussed under Supplementary Information, below.

ADDRESSES: Written comments should be sent to: Patrick B. Boggs, Regional Director, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301. The public hearing, if held, will be in Room D, Capitol Complex Conference Center, Washington Street, East, Charleston, West Virginia.

The hearing may be canceled, as discussed under Supplementary

Information, below. Copies of the full text of the proposed West Virginia plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region I, 603 Morris Street, Charleston, West Virginia 25301.

West Virginia Department of Natural Resources, 1800 Washington Street, Charleston, West Virginia 25301.

The Administrative Record will be available for public review at the OSM Region I office above, on Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: Earl Cunningham, Assistant Regional Director, AML, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301, Telephone (304) 342-8125.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 et seq., establishes an abandoned mine land program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may approve the State program and grant to the State exclusive responsibility and authority to implement the provisions of the approved program.

On October 29, 1980, OSM received a proposed abandoned mine reclamation plan from the State of West Virginia. The purpose of this submission is to demonstrate both the intent and capability to assume responsibility for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Lands (AML) Reclamation Program (30 CFR Chapter VII, Subchapter R) as published in the *Federal Register* (FR) on October 25, 1978, 43 FR 49932-49952.

This notice describes the proposed program and sets forth information concerning public participation in the Director's determination of whether or

not the submitted plan may be approved. The public participation requirements for the consideration of a State AML Reclamation Plan are found in 30 CFR 884.13 and 884.14 (43 FR 49948 (1978)). Additional information may be found under corresponding sections of the preamble to OSM's AML Reclamation Program Final Rules (43 FR 49932-49940 (1978)).

The receipt of the West Virginia Reclamation Plan submission is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands in West Virginia.

By submitting a proposed plan, West Virginia has indicated that it wishes to be primarily responsible for this program. If the submission as hereafter modified, is approved by the Director of OSM, the State will have primary responsibility for the reclamation of abandoned mine lands in West Virginia. If the program is disapproved and the State does not choose to revise the plan, a Federal AML program will be implemented and OSM will have primary responsibility for these activities.

All written comments must be mailed or hand carried to the Regional Director's Office above or may be hand carried to the public hearing, if a public hearing is found to be necessary, and submitted as exhibits to the proceedings.

If the Regional Director finds that the State has given the public adequate notice and opportunity to comment in public hearings, and that the record of such hearing does not reflect major unresolved controversies and there are not a significant number of requests during the comment period on the need for a hearing, the hearing may be canceled by a notice published in the *Federal Register* canceling the scheduled hearing.

Written comments on the issue of waiver of the public hearing must be received by 5:00 p.m., November 10, 1980.

Pursuant to 30 CFR 884.13, OSM will continue the period of review of the proposed West Virginia Reclamation Plan at least until a final decision is made by the Secretary of the Interior on the West Virginia permanent regulatory program.

The comment period will close at 5:00 p.m., on January 3, 1981. Comments received after that time will not be considered. Representatives of the Regional Director's Office will be available to meet between 8:00 a.m. and 4:00 p.m. at the request of members of the public to receive their advice and recommendations concerning the

proposed State AML reclamation program.

Person's wishing to meet with representatives of the Regional Director's Office during this time period may place such request with Richard Leonard, Public Information Officer, telephone 304/342-8125 at the Regional Director's Office above.

Meetings may be scheduled between 8 a.m. and 4:00 p.m. Monday through Friday excluding holidays at the Regional Director's Office.

The Department intends to continue to discuss the State's plan with representatives of the State throughout the review process. All contacts between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 at 44 FR 54444.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed program. The approval of State AML reclamation plans does not have significant environmental impact, but is only a procedural change in terms of the governmental entity that will be performing the work.

The Director has determined that this is not a significant rule within the meaning of 43 CFR Part 14 and no regulatory analysis is being prepared on the Director's decision relating to the West Virginia Reclamation Plan for Abandoned Mine Lands.

The West Virginia Reclamation Plan for Abandoned Mine Lands can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The State has the legal authority, policies and administrative structure to carry out the plan.
4. The plan meets all the requirements of the OSM, AML Reclamation Program Provisions.
5. The State has an approved Regulatory Program, and
6. It is determined that the plan is in compliance with all applicable State and Federal laws and regulations.

The following constitutes a summary of the contents of the West Virginia State Reclamation Plan submission:

The West Virginia Department of Natural Resources has been designated by the Governor of the State of West Virginia to implement and enforce the Abandoned Mine Lands Program in

accordance with SMCRA (Pub. L. 95-87). The Department of Natural Resources has developed State regulations to carry out State mandate. Contents of the State Plan submission include:

- (a) Designation of authorized State agency to administer the program.
- (b) State's Chief Legal Officers opinion of designated Agency to operate the program.
- (c) Description of the policies and procedures to be followed in conducting the program including:
 - (1) Goals and objectives.
 - (2) Project ranking and selection procedures.
 - (3) Coordination with other reclamation programs.
 - (4) Land acquisition, management and disposal.
 - (5) Reclamation on private land.
 - (6) Rights of Entry.
 - (7) Public participation in the program.
- (d) Description of the Administrative and Management structure to be used in the program including:
 - (1) Description of the organization of the designated agency and its relationship to other organizations that will participate in the program.
 - (2) Personnel staffing policies.
 - (3) Purchasing and procurement systems and policies.
 - (4) Description of the accounting system including specific procedures for operation of the reclamation fund.
- (e) Description of the public's participation in preparation of the plan.
- (f) A general description of activities to be conducted under the reclamation plan including:
 - (1) Known or suspected eligible lands and water requiring reclamation, including a map.
 - (2) General description of the problems identified and how the plan proposes to deal with them.
 - (3) General description of how the lands to be reclaimed and proposed reclamation relate to the surrounding lands and land uses.
 - (4) A table summarizing the quantities of land and water affected and an estimate of the quantities to be reclaimed during each year covered by the plan.
 - (5) General description of the social, economic, and environmental conditions in the different geographic areas where reclamation is planned, including:
 - (i) The economic base.
 - (ii) Sociological and demographic characteristics.
 - (iii) Significant aesthetic, historic or cultural, and recreational values.
 - (iv) Hydrology including water quality and quantity problems associated with past mining.

(v) Flora and fauna including endangered or threatened species and their habitat.

(vi) Underlying or adjacent coal beds and other minerals and projected methods of extraction.

(vii) Anticipated benefits from reclamation.

Dated: October 30, 1980.

Dave L. Reeves,
Acting Director.

[FR Doc. 80-34479 Filed 11-4-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Part 735

Minority Institutions Science Improvement Program (MISIP)

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations to implement the Minority Institutions Science Improvement Program. The proposed regulations will allow accredited two- and four-year institutions of higher education whose enrollments are predominantly (more than 50 percent) American Indian, Alaskan Native, Black American, Mexican American, Puerto Rican or any combination of these or other disadvantaged ethnic minorities who are underrepresented in science to become eligible to participate in the program. The program provides support to these minority institutions and certain other nonprofit groups to effect long-range improvement in science education at predominantly minority institutions and to increase the flow of underrepresented ethnic minorities into scientific careers.

DATES: Comments must be received on or before December 5, 1980.

ADDRESSES: Comments should be addressed to Dr. Argelia Velez-Rodriguez, U.S. Department of Education, Division of Science Education Resources Improvement, Minority Institutions Science Improvement Program, Room W-436, 1800 G St., N.W., Washington, D.C. 20550, Telephone No. (202) 282-7760.

SUPPLEMENTARY INFORMATION: The Minority Institutions Science Improvement Program was transferred to the Department of Education from the National Science Foundation by the Department of Education Organization Act of 1979, Pub. L. 96-88, Section 304.

Types of Support

Support is provided to eligible institutions in four ways: (1) Design grants to minority institutions that do not have formal planning capabilities on campus to provide assistance in developing long-range science improvement plans; (2) grants to individual minority institutions in support of comprehensive science improvement plans; (3) grants to nonprofit accredited colleges and universities in support of cooperative science improvement projects; and (4) grants to eligible institutions or organizations in support of special projects designed to implement Program goals.

Expanding the Scope of Special Projects

In the past, Special Projects have been limited primarily to undergraduate level activities. Beginning in Fiscal Year 1981, the special projects category has been expanded to support program activities at the pre-college level. The opportunity for pre-college students to interact early in their educational experience with practicing scientists and engineers provides the necessary models for students to choose careers in science.

Increasing the Limit of Special Projects

Formerly, Special Projects awards have been restricted to eligible minority institutions as recipients and limited to a maximum award of \$50,000 over a two year period. Beginning FY 1981, Special Projects that (a) render a needed service to a group of eligible minority institutions, or (b) offer training for project directors, scientists, and engineers from eligible minority institutions, or (c) both, are supported to a maximum level of \$150,000 over a two year period. Under the proposed regulations eligible applicants for Special Projects may include science-oriented nonprofit organizations, professional scientific societies, and all nonprofit colleges and universities without regard to minority enrollment.

Preapplications

In the past, preapplications have not been accepted. However, since there are currently many eligible two and four-year institutions that have never received a MISIP grant, the program will accept and respond to preliminary proposals from these institutions only, beginning in Fiscal Year 1982. This change in the program procedures was made to increase participation in the program and encourage institutions with established programs in science to submit proposals.

Additional Requirements for Projects

These proposed regulations do not contain certain types of administrative requirements because they are covered in the Education Division's General Administrative Regulations (EDGAR) which were published as final regulations on April 3, 1980 (45 FR 22494).

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this preamble. All comments received on or before December 5, 1980, will be considered in the development of the final regulations. If substantive revisions to the regulations are necessary as a result of public comment, applicants will be given the opportunity to amend their applications. Should this be necessary, a 30 day public comment period on the proposed regulations will expedite the amendment process and minimize delays in the award of projects because all comments on the proposed regulations will have been received prior to the closing date for applications.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, at the Department of Education, Division of Science Education Resources Improvement, Minority Institutions Science Improvement Program, 5225 Wisconsin Ave., NW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

(Catalog of Federal Domestic Assistance No. 13.120, Minority Institutions Science Improvement Program. Part I of OMB Circular A-95 does not apply to this program)

Dated: October 31, 1980.

Shirley M. Hufstedler,
Secretary of Education.

The Secretary of Education proposes to add a new Part 735 to Title 34 of the Code of Federal Regulations to read as follows:

PART 735—THE MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM**Subpart A—General**

Sec.

- 735.1 What is the Minority Institutions Science Improvement Program (MISIP)?
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Authority: Sec. 3(a), National Science Foundation Act of 1950 as enacted by Pub. L. 81-507, 64 Stat. 149 as amended, (42 U.S.C. 1862).

Subpart A—General**§ 735.1 What is the Minority Institutions Science Improvement Program (MISIP)?**

The Minority Institutions Science Improvement Program is designed to effect long-range improvement in science education at predominantly minority institutions and to increase the flow of underrepresented ethnic minorities into scientific careers.

(42 U.S.C. 1862)

§ 735.2 Who is eligible to receive a grant?

The following parties are eligible to receive grants:

- (a) Public and private, nonprofit minority institutions as defined in § 735.5(b).
(b) Nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which render a needed service to a group of eligible minority institutions or which provide in-service training for project directors,

scientists, and engineers from eligible minority institutions.

(42 U.S.C. 1862)

§ 735.3 How does a minority institution establish eligibility?

An individual institution is required to provide the information necessary to establish eligibility to participate in the program. The data on enrollment furnished by the institution to the Office for Civil Rights, Education Department, to satisfy requirements for the "Fall Enrollment and Compliance Report of Institutions of Higher Education, 1978" (Higher Education General Information Survey HEGIS XIII: OE Form 2300-2.3) are required for review toward satisfying eligibility requirements.

(42 U.S.C. 1862)

§ 735.4 What regulations apply to the Minority Institutions Science Improvement Program?

The following regulations apply to the Minority Institutions Science Improvement Program:

- (a) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100a (Direct Grant Programs) and 45 CFR Part 100c (General).

(b) The regulations in this Part 735.

(42 U.S.C. 1862, 20 U.S.C. 3444)

§ 735.5 What definitions apply to the Minority Institutions Science Improvement Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 45 CFR Part 100c.

Applicant
Application
Department
Grants
Grantee
Nonprofit
Private
Project
Project period
Resources
Secretary

(20 U.S.C. 1221e-3(a)(1))

(b) *Definitions that apply to this part.* "Accredited" means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

"Minority" means American Indian, Alaskan Native, Black American, Mexican American, Puerto Rican or other disadvantaged ethnic group underrepresented in science and engineering.

"Minority Institution" means an accredited college or university whose enrollment of a single minority group or a combination of minority groups as

defined in § 735.5(b) exceeds fifty percent of the total enrollment.

"Pre-College level" means middle or secondary school.

"Science" means, for the purposes of this program, the biological, engineering, mathematical, physical and social sciences, and the history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

"Underrepresented in science and engineering" means a minority group in which the number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for non-minority scientists and engineers.

(42 U.S.C. 1862)

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

§ 735.10 What kinds of projects are supported by this program?

The Secretary awards grants under this program for all or some of the following categories of projects:

(a) Institutional projects for implementing a comprehensive science improvement plan as described in § 735.11.

(b) Design projects for developing a long-range science improvement plan as described in § 735.12.

(c) Special projects to support a single activity as described in § 735.13.

(d) Cooperative projects to share facilities and personnel and disseminate information as described in § 735.14.

(42 U.S.C. 1862)

§ 735.11 What are Institutional projects?

(a) Institutional project grants support the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

(b) The length of the project period is a maximum of 36 months.

(c) Activities that the Secretary may assist under an institutional project include but are not limited to the following:

(i) Faculty development programs; or
(ii) Development of curriculum materials.

(d) Eligible applicants for institutional projects are minority institutions.

(42 U.S.C. 1862)

§ 735.12 What are Design projects?

(a) Design project grants assist minority institutions that do not have their own appropriate resources or

personnel to plan and develop long-range science improvement programs.

(b) The length of the project period is a maximum of 12 months.

(c) Activities that the Secretary may assist under a design project include but are not limited to the following:

(1) Development of planning, management, and evaluations systems; and

(2) Improvement of institutional research or development offices.

(d) Eligible applicants for a design project are minority institutions that have not received support under this program in prior years.

(42 U.S.C. 1862)

§ 735.13 What are Special projects?

(a) Special project grants support a single activity to—

(1) Improve quality training in science and engineering at minority institutions;

(2) Enhance the minority institution's general scientific research capabilities;

(3) Provide a needed service to a group of eligible minority institutions; or

(4) Provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

(b) The length of the project period is a maximum of 24 months.

(c) Activities that the Secretary may assist under a special project include, but are not limited to, the following:

(1) Advanced science seminars;

(2) Science faculty workshops;

(3) Faculty training to develop specific science research or education skills;

(4) Research in science education;

(5) Programs for visiting scientists;

(6) Preparation of films or audio-visual materials in science;

(7) Development of learning experiences in science beyond those normally available to minority undergraduate students;

(8) Development of pre-college enrichment activities in science; and

(9) Any other activities designed to address specific barriers to the entry of minorities into science.

(d) Eligible applicants for special projects of the type listed in paragraphs (a)(1) and (2) of this section are minority institutions. Eligible applicants for special projects of the type listed in paragraphs (a)(3) and (4) of this section are all applicants eligible for assistance under this program.

(42 U.S.C. 1862)

§ 735.14 What are Cooperative projects?

(a) Cooperative project grants assist groups of nonprofit accredited colleges and universities with common problems to work together to conduct a science improvement project.

(b) The length of the project period is a maximum of 36 months.

(c) Activities that the Secretary may fund under cooperative projects include, but are not limited to, the following:

(1) Assist institutions in sharing facilities and personnel;

(2) Disseminate information about established programs in science and engineering;

(3) Support cooperative efforts to strengthen the institutions' science and engineering programs; and

(4) Carry out a combination of any of the activities in paragraphs (d)(1)–(3) of this section.

(d) Eligible applicants for cooperative projects are groups of nonprofit accredited colleges and universities whose primary fiscal agent is an eligible minority institution as defined in § 735.5(b).

(42 U.S.C. 1862)

Subpart C—How Does One Apply for a Grant—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

§ 735.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 735.31.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) For applications of substantially equal quality, the Secretary gives priority to projects that contribute to achieving balance among projects funded by this program within each of the following categories:

(1) Past history of participation in the program;

(2) Geographic location;

(3) Academic discipline; and

(4) Project type.

§ 735.31 What selection criteria does the Secretary use?

The Secretary evaluates applications using the following criteria:

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) Methods of coordination. (See EDGAR 45 CFR 100a.581)

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project.

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of a racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See EDGAR 45 CFR 100a.590—Evaluation by the grantee; where applicable)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are

objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1221(e)-3(a)(1))

(f) *Identification of need for the project.* (10 points)

(1) The Secretary looks for information that shows the identification of need for the project.

(2) The Secretary looks for information that shows—

(i) An adequate needs assessment;

(ii) An identification of specific needs in science; and

(iii) An involvement of appropriate individuals, especially science faculty, in identifying the institutional needs.

(g) *Potential institutional impact of the project.* (15 points)

(1) The Secretary reviews each application to determine the extent to which the proposed project gives evidence of potential for enhancing the institution's capacity for improving and maintaining quality science education for its minority students.

(2) The Secretary looks for information that shows—

(i) For an institutional or cooperative project, the extent to which both the established science education program(s) and the proposed project will expand or strengthen the established program(s) in relation to the identified needs; or

(ii) For a design project, the extent to which realistic long-range science education improvement plans will be developed with the technical assistance provided under the project; or

(iii) For a special project, the extent to which it addresses needs that have not been adequately addressed by any existing institutional science program or takes a particularly new and exemplary approach that has not been taken by any existing institutional science program.

(h) *Institutional commitment to the project.* (15 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to continue the project activities when funding ceases.

(2) The Secretary looks for information that shows—

(i) Adequate institutional commitment to absorb any after-the-grant burden initiated by the project;

(ii) Adequate plan for continuation of project activities when funding ceases;

(iii) Clear evidence of past institutional commitment to the provision of quality science programs for its minority students; and

(iv) A local review statement signed by the chief executive officer of the institution endorsing the project and indicating how the project will accelerate the attainment of the institutional goals in science.

(i) *Expected outcomes.* (10 points)

(1) The Secretary reviews each application to determine the extent to which minority students will benefit from the project.

(2) The Secretary looks for information that shows—

(i) Expected outcomes likely to result in the accomplishment of the program goals;

(ii) Educational value for science students; and

(iii) Possibility of long-term benefits to minority students, faculty, or the institution.

(j) *Scientific and educational value of the proposed project.* (10 points)

(1) The Secretary reviews each application for information that shows its potential for contributions to science education.

(2) The Secretary looks for information that shows—

(i) The relationship of the proposed project to the present state of science education

(ii) The use or development of effective techniques and approaches in science education; and

(iii) Potential use of some aspects of the project at other institutions.

(42 U.S.C. 1862)

Subpart E—What Conditions Must a Grantee Meet?

§ 735.40 What are the restrictions on the types of costs a grant may support?

Funds may not be used for—

(a) Undergraduate scholarships;

(b) Augmenting the salary rate for faculty members pursuing regularly assigned duties;

(c) Full support of faculty members currently employed by the institutions;

(d) Support for a project director or for faculty members beyond the extent of their participation in project activities. For design grants no more than fifty percent of the academic year salaries may be paid.

(e) Support for faculty members engaged in project activities during summer in excess of two-months of a

faculty member's current academic year salary for full-time involvement for an 8-week period;

(f) Fees and expenses for consultants in excess of the established applicant's rate;

(g) Support for student assistant's not involved in project activities or in excess of the approved work-study rates in operation at the institution;

(h) Support of any other on-going, regular activity at the institution;

(i) Staff benefits, if they are treated as an item of indirect cost in the negotiation of the institution's Indirect Cost Rate; and

(j) Major renovations of existing physical facilities.

(42 U.S.C. 1862)

[FR Doc. 80-34467 Filed 11-4-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Valley Forge National Historical Park, Pennsylvania; Alcoholic Beverages

AGENCY: National Park Service.

ACTION: Proposed rules.

SUMMARY: The purpose of this proposed regulation is to establish restrictions on the consumption of alcoholic beverages within Valley Forge National Historical Park to reduce the adverse impact on the park resources and to ensure the safety of park visitors.

DATES: Written comments, suggestions or objections will be accepted until December 5, 1980.

ADDRESS: Comments should be directed to: Superintendent, Valley Forge National Historical Park, Valley Forge, Pennsylvania 19481.

FOR FURTHER INFORMATION CONTACT: H. Gilbert Lusk, Superintendent, Valley Forge National Historical Park, Telephone: (215) 783-7700.

SUPPLEMENTARY INFORMATION:

Background

Valley Forge National Historical Park was established to preserve the site of the encampment of the American army during the winter of 1777-1778. Visitors from many parts of the U.S. and abroad travel to the site to view the historic grounds, buildings and fortifications associated with that period. With increasing regularity, persons who visit the park seeking to reflect on the events that occurred there during the Revolution find that many of the available parking spaces provided are

occupied by persons pursuing other than historic interests.

An activity having an adverse impact on the use and enjoyment of the park as an important historic site is the consumption of alcoholic beverages. The apparent increase in this activity seems to be due primarily to Commonwealth of Pennsylvania prohibitions against consuming alcoholic beverages in State and local parks and the strict enforcement of these prohibitions by local law enforcement agencies. Under these circumstances Valley Forge National Historical Park has become an attraction to many people simply because it is a park where drinking is not prohibited. Additionally, the use of alcohol leads, in many cases, to disruptive behavior which conflicts with other uses of the park. Vandalism, motor vehicle violations, unsafe acts, and obstreperous behavior are all associated with the consumption of alcoholic beverages in the park to the detriment of the visitor who would benefit from the park's legislated purpose.

The implementation of a regulation prohibiting this activity will significantly reduce problems associated with heavy use of Valley Forge National Historical Park. This will have the effect of making the park more readily usable by visitors who want to study its history and will produce a more peaceful atmosphere in keeping with an area of great historical significance.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The author of this regulation is Thomas J. Fewlass, Chief Park Ranger, Valley Forge National Historical Park.

Impact Analysis

The National Park Service has made a determination that the regulation contained in this rulemaking is not significant, as that term is defined in 43 CFR Part 14, nor does it require the preparation of a regulatory analysis pursuant to the provisions of this authority.

(Secs. 1 and 3, Chap. 408, the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. §§ 1, 3); Sec. 101(b), Pub. L. 95-250, 92 Stat. 166 (16 U.S.C. § 1a-1); Sec. 3, Pub. L. 94-377, 90 Stat. 797 (16 U.S.C. § 410 aa-2); and

National Park Service Order No. 77 (38 FR 7478), as amended)

F. R. Holland, Jr.,

Acting Associate Director, Management and Operations.

In consideration of the foregoing, Part 7 of Title 36, Code of Federal Regulations is amended by the establishment of a new section 7.37 to read as follows:

§ 7.37 Valley Forge National Historical Park.

(a) Alcoholic beverages.

Prohibition. The possession or drinking of alcoholic beverages in any public place or in any motor vehicle is prohibited, except with the written permission of the Superintendent. This regulation shall not apply to persons transporting alcoholic beverages through the park in sealed or unopened containers.

(b) Definition.

As used in this section, the term "public place" shall mean any place, building, road, picnic area, parking space, or other portion of Valley Forge National Historical Park to which the public has access.

[FR Doc. 80-34424 Filed 11-4-80; 8:45 am]

BILLING CODE 4310-70-M

POSTAL SERVICE

39 CFR Part 111

Definition of Periodical Publication

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend section 421.1 of the Domestic Mail Manual to establish administrative definitions of the terms "newspaper" and "periodical publication" as those terms are used with regard to second-class mail eligibility. These definitions substitute for the previous use of a definition of "periodical" from a 1902 Supreme Court decision, which the courts have now held should not be applied as a rule of law.

DATE: Comments must be received on or before December 4, 1980.

ADDRESS: Written comments should be addressed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 1640, 475 L'Enfant Plaza, West, S.W., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Martin Cohen, Office of Mail Classification, (202) 245-4569.

SUPPLEMENTARY INFORMATION:

Historically, only "newspapers and other periodical publications" have been eligible for mailing at the second-class rates of postage. Former 39 U.S.C. § 4351 (1964 ed.), Domestic Mail Classification Schedule § 200.010. In applying a similar statutory requirement, the U.S. Supreme Court stated, in *Houghton v. Payne*, 194 U.S. 88, 97 (1904):

"A periodical, as ordinarily understood, is a publication appearing at stated intervals, each number of which contains a variety of original articles by different authors, devoted either to general literature of some special branch of learning or to a special class of subjects. Ordinarily each number is incomplete in itself, and indicates a relation with prior or subsequent numbers of the same series. It implies a continuity of literary character, a connection between the different numbers of the series in the nature of the articles appearing in them, whether they be successive chapters of the same story or novel or essays upon subjects pertaining to general literature. If, for instance, one number were devoted to law, another to medicine, another to religion, another to music, another to painting, etc., the publication could not be considered as a periodical, as there is no connection between the subjects and no literary continuity. It could scarcely be supposed that ordinary readers would subscribe to a publication devoted to such an extensive range of subjects."

Until recently, the Postal Service has applied the *Houghton* definition in determinations of second-class eligibility. However, this use of the *Houghton* definition was invalidated on the grounds that the Postal Service had not freely chosen to apply the definition as an administrative standard, but had improperly treated it as a rule of law. *Standard Rate and Data Service, Inc. v. USPS*, 584 F.2d 473 (D.C. Cir. 1978); see also *National Auto Research Publications, Inc. v. USPS*, 584 F.2d 483 (D.C. Cir. 1978); *H. W. Wilson Co. v. USPS*, 580 F.2d 33 (2nd Cir. 1978); *Institute for Scientific Information, Inc. v. USPS*, 555 F.2d 128 (3rd Cir. 1977). In response to these decisions, the Postal Service has developed the administrative definitions of the terms "newspaper" and "periodical publication" which are the subject of this proposed rule.

The proposed definition of a "periodical" does not include the *Houghton* requirement of a variety of

original articles but does require that a periodical must:

- (1) be published at a stated frequency with the intent to continue publication indefinitely,
- (2) have the transmission of information as its primary purpose,
- (3) exhibit continuity from issue to issue, and
- (4) have the primary distribution of each issue completed before that of each succeeding issue.

The last requirement means that more than fifty percent of all the copies of an issue that will be distributed by any means must be distributed to their recipients before any copies of a succeeding issue may be distributed. The purpose of this restriction is to deny second-class entry to publications which are not truly periodicals. An example would be a series of catalogs which may technically be issued at a stated frequency but which is actually prepared in advance of the dates of issuance and distributed primarily upon request.

Proposed § 421.1b contains three categories of publications whose classification as "periodical publications" is statutorily based. They are higher-education catalogs (39 U.S.C. § 3626(b)), looseleaf reports concerning developments in the law or public policy (39 U.S.C. § 3626(b)), and transportation guides (former 39 U.S.C. § 4352(c) (1964 ed.)).

Proposed § 421.1c specifically provides that material which constitutes a book cannot be converted into an issue of a "periodical publication" by superficial means. This policy was upheld by the Supreme Court in the *Houghton* case where the court ruled that a series of reprinted books was not eligible for second-class mail as a periodical even though the books were issued at a stated frequency, under a common name, and to paid subscribers. That ruling was unaffected by the recent courts of appeals decisions on the issue of the proper definition of a periodical.

Proposed § 421.1d provides a definition of "newspaper" and stressed the timely, nonpermanent character normally associated with this type of publication.

The Postal Service believes that the proposed definitions of "newspaper" and "periodical" reflect the common understanding of both the Postal Service and mailers of what constitutes second-class publications. These definitions are intended to provide additional guidance to postal employees and the public on the requirements for eligibility for second-class mail privileges.

Although exempt from the requirements of the Administrative

Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comment on the following proposed revisions of the Domestic Mail Manual, which is incorporated by reference in the *Federal Register*. See 39 CFR 111.1.

PART 421—REQUIREMENTS FOR ALL SECOND-CLASS PUBLICATIONS

In part 421, 421.1 is revised to read as follows:

421.1 Periodical publications.

Only newspapers and other periodical publications which meet the mailability conditions stated in 123 and the requirements of this chapter may be mailed at the second-class rates. For second-class mail purposes, a periodical publication is defined as follows:

a. A periodical is a publication which is published at a stated frequency with the intent to continue publication indefinitely. The primary distribution of each issue must be made before that of each succeeding issue. The primary purpose of a periodical must be the transmission of information. A periodical may consist of original or reprinted articles on a single topic or variety of topics, listings, photographs, illustrations, graphs, a combination of advertising and nonadvertising matter, comic strips, legal notices, editorial material, cartoons, or other subject matter. A periodical must also exhibit continuity from issue to issue. Continuity may be evidenced by serialization of articles or by successive issues carrying the same style, format, theme, or subject matter.

b. The following particular types of publications are also considered to be periodical publications:

(1) Any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education, issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.

(2) Any looseleaf page or report (including any index, instruction for filing, table or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

(3) Any transportation guide containing transportation schedules, fares, and related information.

c. Material which has been, or is intended to be, distributed primarily as a book cannot be converted into an issue of a periodical by merely placing a periodical's name upon it, placing it within a periodical's cover, or using

similar superficial methods. This restriction does not prohibit excerpts or condensations of books from being proper subject matter for periodicals.

d. A newspaper is a periodical which is designed primarily to be a source of timely information on current events connected with public affairs, international activities, politics, art, or other subjects. A newspaper must be unbound, printed on newsprint and issued weekly or more frequently.

An amendment to 39 CFR 111.3 will be published if this proposal is adopted.

(39 U.S.C. 401(2), 404(a)(2))

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 80-34435 Filed 11-4-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR 52

[A-3-FRL 1654-6]

Proposed Revision of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Delaware has submitted a proposed revision of its State Implementation Plan (SIP) consisting of amendments to existing air pollution control regulations requiring monitoring of emissions from certain sources as required by the **Federal Register** Notice of October 6, 1975 entitled "Requirements for Submittal of Implementation Plans Standards for New Stationary Sources—Emission Monitoring", 40 FR 46240. These sources are sulfuric acid plants greater than 300 tons per day, fluid bed catalytic cracking unit catalyst regenerators of greater than 20,000 barrels per day fresh feed capacity at petroleum refineries, and fuel burning equipment which is not exempted within the regulations. These regulations are included as amendments to Regulation No. XVII, "Source Monitoring, Record Keeping and Reporting", of the State of Delaware's "Regulations Governing the Control of Air Pollution", and will apply to any source in the State of Delaware which conforms with the categories listed within the regulations.

DATE: Comments must be submitted on or before December 5, 1980.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection

during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan
 State of Delaware, Department of Natural Resources, and Environmental Control, Edward Tatnall Building, Dover, Delaware 19901, ATTN: Mr. Robert French
 Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW (Waterside Mall), Washington, D.C. 20460

All comments on the proposed revision submitted on or before December 5, 1980 will be considered and should be directed to: Mr. Robert J. Blanco, Acting Chief, Air Programs Branch (3AH10), Air, Toxics and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, PA 19106, attn: (AH 006DE).

FOR FURTHER INFORMATION CONTACT: Mr. Gregory D. Ham, U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, PA 19106, (215) 597-2745.

SUPPLEMENTARY INFORMATION

Introduction

The proposed amendments to the Delaware regulations were submitted by Governor Pierre S. du Pont on September 7, 1977, accompanied by a certification that the public hearing requirements were fulfilled prior to adoption of these regulations.

Description of the Amendments

The amendments consist of the addition of Sections 2 thru 6 to Regulation No. XVII, "Source Monitoring, Record Keeping and Reporting", of the Regulations Governing the Control of Air Pollution.

The regulations require installation, calibration, operation, and maintenance of all monitoring equipment necessary for the continuous monitoring of the pollutants specified for the applicable source category. The monitoring and recording must begin within eighteen months of the date of plan approval of promulgation.

Section 2.1 contains the specifications for monitoring of fuel burning equipment with an annual average capacity factor for calendar year 1974 of greater than 30 percent (as reported to the Federal Power Commission).

A continuous monitoring system for measurement of opacity must be

installed, calibrated, operated, and maintained to comply with performance specifications of sub-Section 3.1.1 of this regulation for any source greater than 250 million Btu per hour heat input except where the fuel used is gaseous fuel only, oil or a mixture of oil and gas where the source is able to comply with particulate matter and opacity regulations without the use of particulate matter collection equipment, or for waste heat boilers unless they derive greater than 250 million Btu per hour heat input from the firing of auxiliary fuel.

Sulfur dioxide must be monitored continuously to comply with performance specifications of paragraph 3.1.3 of this regulation on any fuel burning equipment of greater than 250 million Btu per hour heat input where sulfur dioxide control equipment has been installed.

A continuous monitoring system for measurement of nitrogen oxides is required on any fuel-burning equipment discharging effluents through a common stack of greater than 1000 million Btu per hour heat input when that source is located in an Air Quality Control Region classified as Priority I for NO₂. Any source owner or operator who demonstrates during source compliance tests emission levels of 30 percent or more below the New Source Performance Standard is exempted from this requirement.

Where conversion of measurements of oxygen or carbon dioxide in the flue gas are needed for sulfur dioxide or nitrogen oxides continuous emission monitoring data, continuous monitoring systems for the measurement of the percent oxygen or carbon dioxide in the flue gas are required. These systems must meet the performance specifications of subsections 3.1.4 or 3.1.5.

Section 2.3 requires continuous monitoring systems for sulfur dioxide for all sulfuric acid plants of greater than 300 tons per day production capacity. Performance specifications for each sulfuric acid facility within such plants are listed in Subsection 3.1.3.

Section 2.4 requires continuous monitoring systems for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries of greater than 20,000 barrels per day fresh feed capacity. Performance specifications are established in subsection 3.1.1.

Performance specifications for five emission categories are contained in Section 3.1. This section references specifications set forth in Appendix B of the **Federal Register**, Volume 40, Number 194, dated Monday, October 6, 1975. Specifications for calibration gases

and cycling time, zero and span drift, analytical reference methods, and procedures for approval of alternative procedures and requirements are contained by reference in Section 3.2, 3.3, 3.4, and 3.5 respectively.

Section 3.5 allows a five-year exemption from meeting test procedures prescribed in this regulation from the date of plan approval or promulgation for sources that have purchased emission monitoring systems prior to September 11, 1974. Sources regulated under Regulation No. XX, New Source Performance Standards, are also exempted from this regulation.

Monitors must be located such that representative measurements of emissions or process parameters are obtained (Section 3.7). Where effluents from two or more similar facilities are combined, the combined effluent must be monitored, as determined by the Department. Where the facilities are dissimilar or where effluents from one facility are released at more than one point, alternative procedures may be established, and approved by the Department, to comply with these regulations.

Minimum data requirements are prescribed in Section 4.0. These requirements include:

(a) Submittal of a written report of excess emissions for each calendar quarter, and the nature and cause of the excess emissions. The averaging period must be the same as that specified in the test method used to determine compliance (Section 4.1).

(b) Specifications for opacity measurements (Section 4.2).

(c) Specifications for gaseous measurements (Section 4.3).

(d) Reporting of the dates and times when the monitoring system is inoperative, and the nature of repairs or adjustments (Section 4.4).

(e) Reporting of information showing that no excess emissions have occurred and that the continuous emission monitoring system has been operating properly (Section 4.5).

(f) Maintenance of a file on all information in the quarterly summaries, and all other data collected by the monitoring system on data necessary for a minimum of two years from the date of collection of this data or submission of the summaries (Section 4.6).

Data reduction requirements are contained in Section 5.0.

The public is invited to submit, to the address stated above, comments on whether the proposed changes to the regulations should be approved as a revision to the Delaware State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendments meet the requirements of Section 110 (a)(2) of the Clean Air Act and 40 CFR Part 51, "Requirements for Preparation, Adoption, and Submittal of the State Implementation Plans."

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 development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401-642)

Dated: October 23, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-34504 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 60

[Docket No. OAQPS-79-12; AH-FRL 1655-6]

Standards of Performance for New Stationary Sources; Organic Solvent Cleaners; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On June 11, 1980, the Environmental Protection Agency proposed in the *Federal Register* (45 FR 39766) standards of performance for new, modified or reconstructed organic solvent cleaners. On August 25, 1980 (45 FR 56373), the public comment period was extended for the proposed rule from August 25, 1980, to October 24, 1980. Today's action further extends the comment period.

DATE: Written submissions on this proposal will be received until close to business on December 8, 1980.

ADDRESS: Information should be submitted (in duplicate, if possible) to: Central Docket Section, U.S. Environmental Protection Agency, West Tower Lobby, Gallery 1, 401 M Street, SW, Washington, D.C. 20460. Attention: Docket No. OAQPS-78-12.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Schell, Pollutant Assessment Branch, Strategies and Air Standards Division (MD-12), Environmental Protection Agency, Research Triangle

Park, North Carolina 27711, telephone number (919) 541-5345.

SUPPLEMENTARY INFORMATION: Several requests have been received to extend the comment period to allow submittal of additional technical and health related information. Although the Agency had not originally intended to further extend the comment period, some confusion exists as to whether in fact these requests would be granted or not. Because of this confusion and its potential impact on the submittal of relevant information, the comment period is hereby extended to December 8, 1980.

Dated: October 30, 1980.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-34465 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 123

[SW-1-FRL 1655-1]

Vermont Application for Interim Authorization, Phase I; Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were published in the *Federal Register* on May 19, 1980 (45 FR 33063).

These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Vermont application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATES: Comments on the Vermont interim authorization application must be received by December 10, 1980.

Public Hearing: EPA will conduct a public hearing on the Vermont interim authorization application at 9:00 a.m. on December 5, 1980. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed.

ADDRESSES: The public hearing will be held at: The Pavillion Auditorium, State Street, Montpelier, Vermont 05602. Copies of the Vermont interim

authorization application are available at the following addresses for inspection and copying by the public:

Agency of Environmental Conservation,
Division of Water Resources and
Environmental Engineering, Air and
Solid Waste Program, Heritage II, 79
River Street, Montpelier, Vermont
05602 (telephone (802) 828-3395).
Environmental Protection Agency,
Region I Office Library, Room 2100 B,
John F. Kennedy Federal Building,
Boston, Massachusetts 02203
(telephone (617) 223-5791/4017).
EPA Headquarters Library, Room 2404,
401 M Street, S.W., Washington, D.C.

Written comments and requests to
speak at the hearing should be sent to:
Barbara L. Walsh, Vermont State
Coordinator, Waste Management
Branch, U.S. EPA, Region I, John F.
Kennedy Federal Building, Boston,
Massachusetts 02203 (telephone (617)
223-5775).

FOR FURTHER INFORMATION CONTACT:

Barbara L. Walsh, Vermont State
Coordinator, Waste Management
Branch, U.S. EPA, Region I, John F.
Kennedy Federal Building, Boston,
Massachusetts 02203 (telephone (617)
223-5775).

SUPPLEMENTARY INFORMATION: In the
May 19, 1980 Federal Register (45 FR
33063) the Environmental Protection
Agency promulgated Phase I of its
regulations, pursuant to Subtitle C of the
Resource Conservation and Recovery
Act of 1976 (as amended), to protect
human health and the environment from
the improper management of hazardous
waste. EPA's Phase I regulations
establish, among other things: the initial
identification and listing of hazardous
wastes; the standards applicable to
generators and transporters of
hazardous wastes, including manifest
system; and the "interim status"
standards applicable to existing
hazardous waste management facilities
before they receive permits.

The May 19 regulations also include
provisions under which EPA can
authorize qualified State hazardous
waste management programs to operate
in lieu of the Federal program. The
regulations provide for a transitional
stage in which qualified State programs
can be granted interim authorization.
The interim authorization program is
being implemented in two phases
corresponding to the two stages in
which the underlying Federal program
will take effect. In order to qualify for
interim authorization, the State
hazardous waste program must, among
other things:

(1) Have had enabling legislation in
existence prior to August 17, 1980, and

(2) Be "substantially equivalent" to
the Federal program.

A full description of the requirements
and procedures for State interim
authorization is included in 40 CFR Part
123 Subpart F, (45 FR 33479).

The State of Vermont has submitted a
complete application to EPA for Phase I
interim authorization. Copies of the
State submittal are available for public
inspection and comment as noted above.
A public hearing is to be held on the
submittal, unless significant public
interest is not expressed, as also noted
above. The State of Vermont will
participate in the public hearing.

Conduct of Hearing

The hearing is intended to provide an
opportunity for interested persons to
present their views and submit
information for consideration by EPA in
the decision whether to grant Vermont
interim authorization for Phase I of the
RCRA program. A panel of EPA
employees involved in relevant aspects
of the decision will be present to receive
the testimony.

The hearing will be informally
structured. Individuals providing oral
comments will not be sworn in, nor will
formal rules of evidence apply.
Questions may be posed by panel
members to persons providing oral
comments; however, no cross-
examination by other participants will
be allowed.

The State will testify first and present
a short overview of the State program.
Other commenters will then be called in
the order in which their requests were
received by EPA. As time allows,
persons who did not sign up in advance
but who wish to comment on the State's
application for Phase I interim
authorization will also be given an
opportunity to testify.

The State will testify first and present
a short overview of the State program.
Other commenters will then be called in
the order in which their requests were
received by EPA. As time allows,
persons who did not sign up in advance
but who wish to comment on the State's
application for Phase I interim
authorization will also be given an
opportunity to testify.

Each organization or individual will
be allowed as much time as possible for
oral presentation based on the number
of requests to participate and the time
available for the hearing. As a general
rule, in order to ensure maximum
participation and allotment of adequate
time for all speakers, participants should
limit the length of their statements to 10
minutes. The public hearing will be
followed, as time permits, by a question
and answer session during which

participants may pose questions to
members of the panel.

Preparation of Transcripts

A transcript of the comments received
at the hearing will be prepared. To
ensure accurate transcription,
participants should provide written
copies of their statements to the hearing
chairperson. Transcripts will be
available upon request from Barbara L.
Walsh, Vermont State Coordinator,
Waste Management Branch, Region I,
U.S. Environmental Protection Agency,
John F. Kennedy Federal Building,
Boston, Massachusetts 02203 (telephone
(617) 223-5775), approximately three
days after the hearing at cost.

Major Issues of Interest to EPA

In order for a State program to receive
interim authorization, it must be
substantially equivalent to the Federal
program. EPA is soliciting comments on
all aspects of the substantial
equivalence of the Vermont program to
the Federal hazardous waste
management program.

The Agency is particularly interested
in public comment on the following
issues which have been identified as
significant areas in which Vermont's
program differs from the Federal
program:

(1) Vermont's program may not
include regulation of waste economic
poisons (defined at 10 V.S.A. Section
6602) in a manner substantially
equivalent to the Federal program under
RCRA; (2) The term "person" under the
Vermont definition at 1 V.S.A. Section
128 does not by its terms include the
State. This definition affects the
applicability of the Vermont Hazardous
Waste Regulations to hazardous waste
generators, transporters and facilities.

Dated: October 30, 1980.

Williams R. Adams, Jr.
Regional Administrator, Region I.

[FR Doc. 80-34495 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[SW-7-FRL 1655-3]

**Iowa Application for Interim
Authorization, Phase I, Hazardous
Waste Management Program**

AGENCY: Environmental Protection
Agency, Region VII.

ACTION: Notice of public hearing and
public comment period.

SUMMARY: EPA regulations to protect
human health and the environment from
the improper management of hazardous
waste were published in the Federal

Register on May 19, 1980, (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Iowa application for phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Iowa interim authorization application must be received by December 4, 1980.

PUBLIC HEARING: EPA will conduct a public hearing on the Iowa interim authorization application at 10:00 a.m., on December 4, 1980. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. If you are interested in participating in a public hearing please notify Mr. Robert L. Morby of EPA at the address below no later than Monday, December 1, 1980. The State of Iowa will participate in any public hearing held by EPA on this subject.

ADDRESSES: Copies of the Iowa interim authorization application are available during business hours at the following addresses for inspection and copying by the public:

Iowa Department of Environmental Quality, 900 East Grand, Des Moines, Iowa 50319, 515/281-8692, Business hours: 8:00-4:30

U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374-6534, Business hours: 7:30-4:30

Written comments should be sent to: U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374-6534.

The public hearing will be held at: Fifth Floor Conference Room, Iowa Department of Environmental Quality, 900 East Grand, Des Moines, Iowa 50319, December 4, 1980, 10:00 a.m.

FOR FURTHER INFORMATION CONTACT: Robert L. Morby, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374-6534.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, *Federal Register* (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a

transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of interim authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980, and

(2) Submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F, (45 FR 33479). As noted in the May 19, 1980, *Federal Register* copies of complete State submittals for phase I interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal, unless significant public interest is not expressed.

Dated: October 30, 1980.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 80-34503 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Parts 162 and 164

[OPP 60004B; PH FRL 1659-6]

Rules Governing the Rebuttable Presumption Against Registration Process and Rules of Practice Governing Hearings Under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules; extension of comment period.

SUMMARY: EPA has extended the period for submission of comments on the proposed revisions of the procedural regulations governing the Rebuttable Presumption Against Registration (RPAR) process and the conduct of hearings under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

DATE: Comments must be received on or before December 22, 1980.

ADDRESS: Send comments to: Document Control Officer (TS-793), Room E-447, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Edward C. Gray, Deputy Associate General Counsel for Pesticides, Office of General Counsel (A-132), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202) 755-0638.

SUPPLEMENTARY INFORMATION: EPA's proposed revisions of the procedural regulations governing the Rebuttable Presumption Against Registration process and the conduct of hearings under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act were published in the *Federal Register* of August 7, 1980 (45 FR 52628). Although the Agency is not required to promulgate procedural regulations through notice and comment rulemaking, EPA decided in its discretion to publish the proposed rules and to solicit comments. The close of the original comment period was November 5, 1980.

EPA has received requests for an extension of this comment period from the National Agricultural Chemicals Association, the Chemical Specialties Manufacturers Association, and the Environmental Defense Fund. The Agency concludes that additional time would be beneficial to ensure the submission of complete and thoughtful comments on the proposed revisions. Therefore, the close of the comment period has been extended to December 22, 1980.

All comments should be sent to the Document Control Officer at the above address and should bear the identifying notation "OPP 60004." All written comments will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday.

Dated: October 31, 1980.

Edwin H. Clark, II,

Acting Assistant Administrator for Pesticide and Toxic Substances.

[FR Doc. 80-34611 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Ch. 3

Establishment of Departmental Audit Resolution Policy

AGENCY: Health and Human Services, Office of the Secretary.

ACTION: Notice of departmental policy.

SUMMARY: On July 31, 1980, the Department of Health and Human Services established an internal Department-wide policy on the resolution of audit findings affecting the

Department's grants, contracts, and cooperative agreements.

The policy provides basic standards and comprehensive instructions for resolving audit findings from the receipt of an audit report to final resolution.

The policy will soon be published as Chapter 1.105 of the Department's Grants Administration Manual and will also be incorporated into the HHS Procurement Regulations.

FOR FURTHER INFORMATION CONTACT:
Henry G. Kirschemnam, (202) 245-8771.

ADDRESS: Interested parties can obtain a copy of the Chapter from: Henry G. Kirschemnam, Director, Office of Grant and Contract Financial Management, Room 505-D, Hubert Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION: Included in the policy are the following features which may be of particular interest to the Department's grantees, contractors, and recipients of cooperative agreements.

- Standards and procedures for resolving monetary audit findings, which include:

- the use of statistical sampling or other reasonable estimating techniques to determine the amount of unallowable costs when it is impractical to determine the precise amount of such costs on each award; and

- a requirement for audit resolution officials to consider alternative analyses performed by audited organizations in an effort to develop more precise estimates of unallowable costs than those developed by the Department.

- Guidelines for resolving management and systems deficiencies, including requirements for follow-up reviews to insure that significant deficiencies are adequately corrected.

- Guidelines for establishing safeguards to protect the Department's interests when audited organizations refuse or fail to adequately correct deficiencies.

- A requirement that interest be charged on disallowances which are not repaid within 30 days of the notification of the disallowance.

Dated: October 23, 1980.

Frederick M. Bohem,

Assistant Secretary for Management and Budget.

[FR Doc. 80-33911 Filed 11-4-80; 8:45 am]

BILLING CODE 4110-12-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 334 (Sub-No. 5)]

49 CFR Ch. X

Zone of Reasonableness for Car Hire Charges

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to consider introduction of additional flexibility for car hire charges beyond that proposed in Ex Parte 334 (Sub-No. 4). This flexibility is expected to offer greater protection for the equity interests of car owners, to ensure an adequate national fleet of railroad freight cars, and to improve the short-term allocation of railroad freight cars. A zone of reasonableness ranging above and below the present level of basic per diem charges is one form of flexibility that will be considered. Comments and alternative proposals are sought from interested members of the public.

DATES: Comments must be received on or before December 22, 1980. No extensions of time will be granted.

ADDRESS: An original and 15 copies of any comments should be sent to: Room 5340, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Commission's general approach to regulatory reform has been to remove unnecessary governmental restraints in all cases where competitive markets or other private arrangements can better serve the purposes of the national transportation policy. We believe a similar approach may help solve problems of railroad freight car service, and we have already made some partial steps toward reduced regulation in this area. Our recent initiatives have included the rescission of mandatory enforcement of car service rules,¹ the termination of incentive per diem,² and the introduction of downward flexibility in car hire charges.³

¹ *Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules, and Practices*, 362 ICC 844 (1980).

² *Elimination of Incentive Per Diem*, Ex Parte 252 (Sub No. 5), served Aug 26, 1980, (45 FR 56849, Aug 26, 1980). Authority for the IPD program has now been repealed by Section 224 of the Staggers Rail Act of 1980 (Pub. L. No. 96-448).

³ *Order Permitting Railroads Flexibility in Setting Per Diem*, Ex Parte 334 (Sub No. 4), served October 16, 1980, (45 FR 71446, October 28, 1980).

In this proceeding, we will consider means for introducing additional flexibility in car hire charges. The need for such additional flexibility was emphasized in Exploration of the Conference Committee Report the Staggers Rail Act of 1980, which said:

If the Commission allows per diem rates below basic per diem during periods of surplus car supply, the Commission should allow rates above basic per diem during periods of shortage. (Cong. Rec., Sept. 29, 1980, p. H9925.)

We will take a somewhat broader approach than was possible in Ex Parte 334 (Sub No. 4), which focussed narrowly on the emergency car surplus situation created by the 1980 recession. Although in recent years the Commission has exercised its authority under 49 U.S.C. 11122 by prescribing an inflexible car hire charge rate, we do not believe that a prescribed inflexible car hire charge is the only way, or necessarily the best way, to fulfill our statutory obligation to encourage the purchase, acquisition, and efficient use of freight cars.

In considering a zone of reasonableness for car hire charges, we will take into account the requirement of 49 U.S.C. 11122 (b)(1) that per diem should reflect "the expense of owning and maintaining (each) type of freight car, including a fair return on its cost." Given this basic premise, however, we wish to consider whether the other factors listed in that section of the act, namely, considerations of the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply, can better be served by allowing flexibility within a zone. We contemplate that the zone would be centered on a rate that would permit full cost recovery, including a reasonable return on equity, if users were willing to pay that rate at all times over the life of the car.

We invite all interested parties to offer analyses of any and all aspects of the present car service system, and to advance any suggestions for improvements to the present system or any reasons for retaining the system in its present form. In addition, we request answers to a number of specific questions developed below.

Shortcomings of the Present System

As of 1979, U.S. railroads had some \$36 billion invested in freight cars—more than 38 percent of their total investment. This potentially is a major source of productivity gains needed by the railroads to improve their financial

position. Yet, as the Association of American Railroads has noted, car utilization has been deteriorating for three decades. The increase in the average car cycle time appears to be only partly offset by such factors as increased length of haul. At the same time, railroad equipment prices have risen faster than revenue per carload or rail wage rates, making improvements in freight car productivity even more urgent.

Improved freight car productivity is, in the first instance, a responsibility of railroad management, but management cannot be expected to do its job well without the right kind of regulatory environment. Before detailing our proposed regulatory changes, it will be worth briefly reviewing the evolution and shortcomings of the present system.

Evolution of the U.S. Car Service System

A brief review of the evolution of car service institutions will help explain why a true car service market has never developed.⁴ Free interchange of freight cars began with the standardization of railroad gauges, a process which was essentially complete by 1890. It proved much less easy to work out a satisfactory system of payments for the off-line use of cars than to standardize physical plant, however. Railroads entered into many bilateral and multilateral agreements, but none worked smoothly. Initially most agreements were based on mileage payments, giving little incentive to return idle cars to their owners. Furthermore, the difficulty of knowing where a car was when off line made agreements very difficult to police, even though some railroads reportedly hired armies of agents to track down missing cars.

In 1888, a group of railroads attempted to introduce a time and mileage system— $\frac{1}{2}$ cent per mile plus 15 cents per day. With the introduction of a time-related element, car hire charges came to be known as "per diem" payments, a term that is still in use today. This initial attempt to establish a time and mileage formula proved a failure, however, apparently because the information system of the time was too primitive to support the necessary reporting and recording.⁵ Only in 1902 did the American Railway Association finally manage to get agreement on a uniform per diem charge covering some 90 percent of all freight cars in use.

⁴A more detailed discussion can be found in John R. Felton, *The Economics of Freight Car Supply*, University of Nebraska Press (1978), Ch. 2, on which the following discussion draws in part.

⁵Felton, pp. 16-17.

Meanwhile, Congress had passed the Interstate Commerce Act. The intent of the act, in part, was to promote the development of an integrated national rail system out of the hundreds of individual private lines. To this end, the act required that rail carriers establish through routes with one another.⁶ This provision soon came to be interpreted as requiring compulsory interchange of cars: a railroad could neither refuse to pass along its loaded cars to a connecting carrier for delivery off line, nor refuse to accept the loaded cars of other carriers.

Under compulsory interchange, per diem charges came to be established by industry-wide consensus, rather than by bilateral bargaining. The rates that emerged necessarily represented political compromise among those roads that owned more cars than they tended to have on line at any one time, and those that tended to have more cars on line than they owned. As things turned out, there developed a persistent tendency for per diem charges to fall short of full ownership costs.⁷ The low per diem charges contributed to chronic freight car shortages by providing inadequate incentives for originating roads to acquire cars and for terminating roads to return empties promptly to their owners.

Lacking an adequate system of market incentives to insure prompt return of freight cars to their owners, the railroads soon developed a set of administrative rules. The first car service rules were established in 1902. The current rules occupy several pages, but the essential principles are that a road that terminates a foreign car can load it to a destination on or closer to the owning road, or can return it empty to the owner by the reverse of the route by which it came. Loading to a destination farther from the owning road, or delivering the car empty to another carrier for loading are normally precluded by the rules. In effect, the rules act as a ratchet that eventually forces cars back to their owners.⁸

For many years the Commission left the regulation of freight car interchange largely to the railroads. During the 1960's, however, the consensus-based system of per diem charges broke down. Beginning in 1968, the Commission undertook to prescribe a level of per diem charges, and in the next year, it

⁶This requirement survives as U.S.C. 49 Sec. 10703(a)(1).

⁷See Yehuda Grunfeld, "The Effects of the Per Diem Rate on the Efficiency and Size of the American Railroad Freight Car Fleet," *Journal of Business*, January, 1959.

⁸See our decision at 362 ICC 844 (1980) (fn 1, supra) for a detailed discussion of car service rules.

acted to make the AAR's code of car service rules mandatory.

Determination of car hire charges following 1968 was almost entirely concerned with returning ownership costs to car owners rather than with optimizing the size of the car fleet and promoting efficient short-term car utilization. The result is a system of basic per diem charges that may or may not be unfair to car owners, but that clearly has had unwanted side effects that have had to be attacked by other means.

One undesirable effect of a basic per diem level that only barely covered ownership costs was the lack of an incentive to encourage purchase of car types in overall short supply. The incentive per diem (IPD) program was intended to remedy this shortcoming of basic per diem. However, IPD proved to be an exceedingly clumsy tool. One major problem with IPD was the difficulty of targeting it on just the types of cars that railroads most needed to acquire. Thus we had the anomaly of IPD on obsolete 40 foot narrow door boxcars and no IPD on the covered hoppers with which railroads were rapidly replacing them. A second problem with IPD was its inflexibility. During periods of seasonal or cyclical slack demand, IPD cars became "hot potatoes," running up wasteful empty miles as each carrier tried to move them off line as fast as possible. Third, the earmarking requirements placed on IPD funds distorted investment incentives, and contributed to the growth of an artificial distinction between "car supply" railroads and railroads whose primary business was transportation. Finally, all of our IPD decisions were flawed by the impossibility of distinguishing between car service problems arising from inadequate ownership levels, and those arising from poor utilization of the existing fleet.

A second major problem with our regulations was that in decision after decision, considerations of effective car utilization were not properly balanced with considerations of protecting the equity of car owners and manipulating the size of the national fleet. Even our prescription of car service rules reflected this attitude, despite the very substantial impact of car service rules on day-to-day utilization decisions. In our 1969 proceeding *Investigation of Adequacy of Freight Car Ownership*, we wrote that the mandatory observance of car service rules was:

Not designed to improve the utilization of freight cars, except insofar as return loading is compatible with the primary objective of increasing availability of cars to the owner. Thus improved utilization will be largely in

control of the owner who can then provide for the needs of his shippers for whom the equipment was acquired. The greater availability of owned cars rather than haphazard reliance on the supply of foreign cars will provide the owner with an opportunity to measure more accurately its ownership requirements. (335 ICC 264 at 294).

In recent years, the failure of the existing system of car hire charges and car service rules has become increasingly obvious. In 1974, the Association of American Railroads (AAR) established its ongoing Freight Car Utilization Research and Demonstration Program to examine what was characterized as the "increasingly burdensome problems of freight car utilization." At least two major industry initiatives, Railbox and the Clearinghouse, have gone beyond the discussion stage to achieve substantial practical success. Both these experiments have been based on the concept of the "free running" car—a car whose movements are not constrained by car service rules requiring it to be sent loaded or empty only to or toward the owning road.

One major industry initiative has been Railbox, a railroad-owned corporation that has purchased and maintains a large fleet of free-running box cars. These cars, which have no "home" road, are allocated on the principle of "next load—any road." A terminating carrier can reload a railbox car to any destination it chooses. If it has no load for the car, it notifies the Railbox central office, which directs the terminating carrier to send the car empty to the nearest available load, whatever line it happens to be on. Railbox cars are exempt from ICC-mandated per diem charges. Railbox policy is to charge just enough to recover ownership costs; for a variety of reasons, these costs have averaged less than official per diem charges comparable equipment in recent years.

A second important industry initiative has been the Clearinghouse project. The Clearinghouse, like Railbox, is a pool of free-running cars unconstrained by car service rules. It differs from Railbox, however, in that individual member railroads continue to own the cars that they contribute to the pool, and continue to collect ICC-mandated per diem charges. In order to insure that each member carrier gets the use of a number of cars equivalent to those it contributes to the pool, the Clearinghouse maintains a central balancing mechanism. Each month the number of Clearinghouse cars each member has received is compared with the number it has sent off line. If it has received too few cars, it becomes a creditor road, and if it has received too

many, it becomes a debtor. The Clearinghouse then works out a system of compensatory car movements under which debtor roads send cars to creditor roads with the least total movement of empty equipment.

Both Railbox and the Clearinghouse have achieved substantially higher freight car productivity than the average for railroad-owned cars subject to mandatory car service rules. Nonetheless, neither functions flawlessly. In times of over all car shortage, neither system guarantees that a car will be used to move the most highly valued of alternative available loads. In times of car surplus, neither system entirely cures the problem of excess movements of empty cars. We now think that the operation of these and other industry efforts to improve car utilization may be enhanced by permitting additional flexibility in setting car hire charges.

The need for flexibility. In explaining why we think increased flexibility of car hire charges may be beneficial, it is helpful to distinguish two principal functions that those charges must perform.

The first function of car hire charges, which we will call the *accounting* function, is concerned with returning to an owning road, over the life of a car, a yield equal to the full costs of car ownership, including a fair return on equity. If car hire charges are performing their accounting function properly, an owning road will be indifferent to whether a newly acquired car is used on line in service generating freight revenue or off line in service generating car hire revenue.

The second function of car hire charges, which we will call the *allocational* function, has both a short-run and a long-run aspect.

The short-run allocational function is concerned with putting existing cars to their best use. To perform this short-run allocational function properly, car hire charges should reflect not only the long-run costs of car ownership, but also short-run opportunity costs. For example, in periods of car shortage, using a car to move some load *x* may delay movement of some other load *y* on the same or another road. An appropriately high level of per diem would reduce the likelihood that scarce cars would be used to move low priority loads ahead of high priority loads under such circumstances, because shippers with high priority loads would outbid those with low priority loads. Similarly, in periods of car surplus, it is important to keep transportation costs low for the system as a whole by minimizing movements of empty equipment. Under

such circumstances, low per diem charges can reduce the incentive to engage in unnecessary cross-hauling of empty cars.

The long-run allocational function of car hire charges is concerned with maintaining an optimally sized national fleet of each car type. If the national fleet of a certain type of car is at the optimal level, then the long-run allocational function is properly performed by car hire charges that exactly return ownership costs over the life of the cars. If, however, the fleet of a certain car type is smaller than the optimal size, car hire charges should more than barely cover ownership costs so that there will be an incentive to acquire more of that type of car. (As an example of such a situation, consider the case of a new car type, such as jumbo covered hoppers, before sufficient numbers have been produced.) On the other hand, if the national fleet of a certain type is too large, car hire charges can be allowed to fall below the level that would be necessary to cover full ownership costs of replacement equipment. (As an example, consider the case of 40 foot narrow door box cars, some of which remain in service but none of which have been purchased in recent years.)

A well-functioning system of car hire charges must have enough flexibility to adjust to both long-and short-run changes in supply and demand conditions. In the long-run, car hire charges must rise and fall as the expected long-run demand for various car types changes in relation to the existing car fleet. In the short-run, during periods of peak, or cyclical demand, car hire charges should be allowed to rise. This will help give carriers the proper incentive to fill the most urgent shipper needs first when equipment is not available to fill all needs equally promptly. During periods of low demand, car hire charges should fall. This will give carriers an incentive to store surplus equipment, minimize empty car miles, and keep only the minimum necessary car fleet in motion.

The short-and long-run movements of car hire charges necessary to perform these allocational functions are complementary. Short-run levels of charges will sometimes be above and sometimes below the level necessary in the long-run to cover ownership costs exactly, hence the need for flexibility within a zone of reasonableness. When the national fleet of a given car type is at its optimal level, short-run shortages and surpluses should just balance out on the average. When the national fleet is too small, shortages will be more

common than surpluses, and the stream of short-run car hire charges will on the average be high enough to make it profitable to acquire more cars. When the national fleet of a car type is too large, surpluses will be more common than shortages, and unnecessary purchases of replacement equipment will be discouraged.

Barriers to flexibility. Any consideration of flexible per diem must take into account certain institutional and technological barriers that prevented the emergence of a car hire market with flexible rates in the past, before regulation began. In our view, the two major barriers have been the lack of an adequate freight car information system, and the compulsory interchange of cars among railroads. We will discuss each of these in turn.

Clearly flexible per diem rates, determined by supply and demand, impose far greater informational requirements than per diem rates that are uniform across all roads and changed only every year or so. At a minimum, such a system would require all roads to have up-to-date information as to where its own cars are at any movement and who is using them, and as to what foreign cars are on line and what per diem rates are being charged on them. In addition, those responsible for setting per diem charges will presumably want to have access to general information about supply and demand conditions in the car service market.

In the early days of railroading, such information was not available. Even armies of car service agents could not track down all of a road's missing cars, or detect fraudulent misreporting of off line use. Today's railroad information systems are far more sophisticated. In fact, the most dramatic advances in railroad information technology have been made in the last decade. We seek comment on this issue.

The other major barrier to the emergence of a market mechanism for setting per diem rates is compulsory interchange required by law. On the face of it, compulsory interchange appears to make car hire transactions quite unlike ordinary market transactions. The key to an ordinary market transaction is that there must be a meeting of minds both as to price and as to the nature of the service to be performed. The buyer's ultimate protection against an unreasonably high price is simply to walk away from the deal. If the "buyer" of freight car services (in this case is a railroad receiving a loaded car from one of its connections) cannot refuse to accept the tendered car, it clearly must look

elsewhere for protection against unreasonable pricing by the owner. On the other hand, we recognize that compulsory interchange reduces other costs that would otherwise result.

For many years, railroads sought protection from excessive car hire charges in collective action. Per diem charges were determined by consensus of members of the industry. This did afford some protection, but the system had drawbacks of its own. For one thing, the consensus system was not conducive to the flexibility necessary to good short-run allocation. In addition, because car hire rates were a compromise between net car owning and net car using roads, they did not always fully protect the equity interests of owners.

Since 1968, railroads have sought protection from excessive car hire charges in ICC regulation. This too, may have, resulted in inflexibility and allocational distortions.

A major question to be examined in this proceeding is how best to protect using roads against pricing abuses, given compulsory interchange, and at the same time permit sufficient flexibility to improve both short-run and long-run allocation.⁹ We think at least three possibilities are worth serious consideration.

First, we think that the right of railroads to cancel joint rates while keeping through routes open under proportional rates can potentially provide railroads with the bargaining power they need to resist abuses of flexible per diem. We recognized this right recently in deciding *Conrail Surcharge on Pulpboard*.¹⁰ We see no reason why a carrier receiving cars that carry what it perceives to be unreasonably high per diem charges should not seek to raise its transportation revenues by enough to recapture the costs it must bear. It can do so by cancelling an existing joint rate and replacing it with a local rate higher than its division under the joint rate, or by renegotiating the division or joint rate under threat of cancellation. Section 217 of the Staggers Act provides still another mechanism for resolving problems with divisions and joint rates. We seek comment on the workability of this mechanism as a bargaining tool in resolving disputes among carriers under

a regime of flexible per diem. As an alternative to the use of cancellation as a bargaining tool, participants may also want to consider a rule allowing carriers to impose surcharges on traffic moving in high per diem cars.

Second, we wish to consider the possible use of premium charges on traffic carried in cars bearing high per diem rates. Section 225 of the Staggers Rail Act of 1980 provides that

In order to encourage more efficient use of freight cars, notwithstanding any other provisions of this subtitle, rail carriers shall be permitted to establish tariffs containing premium charges for special services or special levels of services not provided in any tariff otherwise applicable to the movement. The Commission shall facilitate development of such tariffs so as to increase the utilization of equipment.

We ask for comment as to whether the use of premium charges in connection with flexible per diem would encourage the efficient use of freight cars.

The third mechanism we think to be worth considering is the use of a zone of reasonableness for per diem charges. This zone would be centered on a basic per diem rate calculated to serve the accounting function of returning ownership costs to car owners. The actual rate charged by an individual carrier would rise above or fall below the basic level (within the limits of the zone) in response to changing supply and demand conditions. The zone ceiling would offer protection against extreme price gouging during periods of car shortage. We consider it probable that the forces of supply and demand would normally prevent car owners from leaving per diem rates at the ceiling permanently, except when ownership of that car type was inadequate over all. For car types with inadequate ownership levels, the tendency of per diem to stay at or near the ceiling would act as an incentive to make additions to the fleet. We ask parties to comment on the usefulness of such a zone, on the proper limits for a zone, and on possible methods of implementing it.

Shipper-owned cars. In addition to the railroad-owned cars on which this notice has primarily focussed, railroads interchange many shipper owned cars. Payment for the use of these cars is now governed by a system of mileage payments that works rather differently from the per diem system for railroad-owned cars. We would like to consider the desirability of bringing private and railroad-owned cars under a uniform system of car hire charges at the same time that we move toward flexible charges for railroad-owned cars. We see

⁹ The Conference Committee Report on the Staggers Rail Act of 1980 noted that "the conferees do anticipate, however, that the Commission shall continue to examine means (such as flexible car hire) of making basic car hire more responsive to market forces where this is possible without subjecting carriers which are forced to use cars received in interchange to unreasonable rates." (Cong. Rec., Sept. 29, 1980, p. H9925.)

¹⁰ I&S 9222, decided April 21, 1980.

potential benefits to both shippers and railroads to doing so; shippers would have a greater opportunity to meet their equipment needs, while railroads would be freed of a greater share of the increasingly high expenses of car ownership. Interested participants should comment on the feasibility of bringing shipper- and railroad-owned cars under a uniform car hire system, and on the costs and benefits to both shippers and carriers of doing so.

Antitrust immunity. In Ex Parte 334 (Sub-No. 4), we held that antitrust immunity would not be granted for collective determination of reduced car hire charges during the emergency car surplus. It is our tentative belief that collective use of the proposals set forth in this notice is inappropriate. Our proposals are premised on rapid carrier reaction to changing market circumstances and the collective ratemaking process does not appear well geared to this end. We ask for comments on this point. We also seek comments as to the effect of Section 224(b) of the Staggers Act on this point. If we are able to devise a system that would govern shipper-owned cars, would the purposes of this section be consistent with a limitation on collective ratemaking? How might a feasible system consistent with the various aims of the new legislation best be designed?

Conclusions

In order to assist the Commission in the preparation of proposed rules, we request interested parties to respond to the following specific questions:

1. To what extent is the level of per diem charges a factor in car acquisition decisions? Would it be a greater factor if per diem charges were flexible? Could the need to adjust the national fleet of particular car types to changes in long-run demand conditions better be served by a level of per diem charges that is free to vary within a zone of reasonableness?

2. In what ways does the level of per diem charges affect car utilization decisions in the short run? Could short-run car utilization better be served by a level of per diem charges that are free to vary within a zone of reasonableness? Would the use of Section 225 premium charges further facilitate car utilization in conjunction with flexible car hire charges?

3. If flexible per diem were allowed, how could carriers best be protected from unfair pricing practices, given compulsory interchange of cars? To what extent do the policies enunciated in Section 217 of the Staggers Rail Act and our decision in I&S 9222, *supra*, allow railroads to protect themselves against unfair pricing practices of other roads? To what extent can an upward limit on a zone of reasonableness provide the necessary protection?

4. If a zone of reasonableness is adopted, how should the basic per diem on which the

zone is centered be set? Are the Commission's current basic per diem procedures appropriate for this purpose? What should be the proper limits of a zone? Should this be set on a cost of capital plus replacement cost basis or by some other calculation?

5. Are current railroad information systems capable of adapting to zone of reasonableness per diem charges or to any of the other alternative approaches? If not, how can they best be adapted? How would per diem charges set under and of the approaches discussed herein best be communicated among carriers?

6. If carriers are given greater freedom to set per diem rates, under any of the approaches discussed herein, what role if any should be permitted for collective decision-making within the zone? Is it administratively feasible for individual carriers to set their own charges without concurrence from other carriers? Can pricing be divorced from non-pricing considerations (coding, information exchange systems, etc.) for purposes of eliminating or restricting grants of antitrust immunity?

7. How can undesirable effects on shippers and non-carrier lessors be eliminated or reduced under a flexible per diem system? Is it feasible or desirable to replace the current mileage allowance system with the same or a similar pricing mechanism as we propose for non-shipper owned cars?

This action does not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10321, 10706, 10734, and 11122, and 5 U.S.C. 553)

Decided: October 22, 1980.

By the Commission: Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-34501 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

New England Fishery Management Council Information Meeting

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of informational meetings.

SUMMARY: The New England Fishery Management Council (Council) announces three public informational meetings to discuss: (1) Locations and procedures for possible area closures in

the Southwest Gulf of Maine to protect spawning concentrations of Atlantic herring; and (2) potential effects of such area closures on the conduct of the herring fishery and the groundfish fishery.

Management of the Atlantic herring fishery in the fishery conservation zone of the Northwest Atlantic Ocean is based on a fishery management plan (FMP) prepared by the Council and implemented by the National Oceanic and Atmospheric Administration (NOAA). The FMP was published at 45 FR 15955 and the implementing regulations were published at 45 FR 52810. The Council will use the information received at these meetings in the preparation of a proposed amendment to its FMP for Atlantic herring.

DATES: The three meetings will be held simultaneously on November 13, 1980.

ADDRESSES: The locations are as follows:

(1) Gloucester City Hall, Dale Avenue, Gloucester, Massachusetts.

(2) Holiday Inn West, 81 Riverside Street, Portland, Maine.

(3) Samoset Resort, Rockport, Maine.

Each meeting will begin promptly at 7 p.m. and adjourn at approximately 10 p.m.; however, they may be lengthened or shortened depending on the progress of the meeting. The Council will distribute informational materials at the beginning of each meeting and will make a record of all comments and statements made by the public.

FOR FURTHER INFORMATION CONTACT: Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts 01906 (619) 231-0422.

Dated: October 31, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-34505 Filed 11-4-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 45 No. 216

Wednesday, November 5, 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

Federal Grain Inspection Service

Amendment to Assignment of Geographic Area to the Cairo Grain Inspection Agency, Cairo, Illinois, and to the Memphis Grain and Hay Association, Memphis, Tennessee

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This document announces amendment of previous assignment of geographic area to the Cairo Grain Inspection Agency (Cairo), Cairo, Illinois, for the performance of official grain inspection under authority of the United States Grain Standards Act, as amended. The geographic area assigned to Cairo on September 5, 1980 (45 FR 59123), as corrected on October 6, 1980 (45 FR 66182), will remain unchanged, except for three facilities in Lake County, Tennessee, cited in this Notice. With regard thereto, this document announces amendment of previous assignment of geographic area to the Memphis Grain and Hay Association (Memphis), Memphis, Tennessee, and provides that official grain inspection at the three excepted facilities in Lake County will be performed by Memphis, as part of the geographic area assigned to it on July 22, 1980 (45 FR 49075).

EFFECTIVE DATE: The decision announced in this Notice becomes effective on November 5, 1980; the previously established effective date of November 21, 1980, is rescinded accordingly.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250; (202) 447-8262.

SUPPLEMENTARY INFORMATION: By Notice published on September 5, 1980, the Federal Grain Inspection Service (Service) took action to assign a geographic area to Cairo, effective October 6, 1980. By subsequent Notice, published on October 6, the Service extended the effective date to November 21, 1980, and corrected the assignment of geographic area to include Obion County, Tennessee, which had been inadvertently omitted in the Notice of September 5.

The extension of the effective date to November 21 was needed to afford the Service adequate opportunity to review and evaluate additional information regarding the recent history and present status of official grain inspection both in Obion County and in Lake County, Tennessee. Each of these two counties was included in the geographic area assigned to Cairo.

As a result of the review and evaluation, the assignment of geographic area to Cairo is amended to exclude the following three facilities in Lake County, Tennessee: Sullivan Grain, Inc., at Tiptonville; West Tennessee Soya at Tiptonville; and Planters Gin at Ridgely. Concurrently, the assignment of geographic area to Memphis is amended to provide that Memphis will service these three facilities as part of the geographic area assigned to it by Notice published on July 22, 1980.

The review and evaluation of the recent history and present status of official grain inspection in Obion County and Lake County, Tennessee, has been completed, and the Service finds no need to delay the effective date of final assignment to Cairo. For this reason, the amendments referenced in this Notice to the geographic areas assigned to Cairo and Memphis are effective November 5, 1980. The amendments, as set forth in this Notice, have been mutually assented to by Cairo and Memphis.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2884 (7 U.S.C. 79))

Done in Washington, D.C., on October 31, 1980.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 80-34499 Filed 11-4-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE National Oceanic and Atmospheric Administration Hochseefischerei Nordstern AG, Issuance of a General Permit to Incidentally Take Marine Mammals

On October 23, 1980, a general permit was issued to Hochseefischerei Nordstern AG, Bremerhaven, West Germany, in Category 1: Towed and Draggled Gear, permitting them to incidentally take 2 cetaceans, 5 phocid seals and 5 otarid seals during commercial fishing operations within the United States fishery conservation zone, pursuant to 50 CFR 216.24. This general permit is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: October 31, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-34494 Filed 11-4-80; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council's Sea Herring Fishery Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Sea Herring Fishery Subpanel, which will meet to discuss possible spawning closure measures in order to formulate recommendations to the Herring Oversight Committee, regarding the adoption of such measures as part of a proposed amendment to the herring fishery management plan (FMP). Management of the Atlantic herring fishery in the fishery conservation zone of the Northwest Atlantic Ocean is based upon the FMP which was published at 45 FR 15955, with implementing regulations published at 45 FR 52810.

An advisory recommendation on the appropriate minimum size for fish caught under the FMP quota is also sought by the Oversight Committee, and

this question will be discussed in the meeting.

DATES: The meeting, which is open to the public, will convene on Tuesday, November 25, 1980, at approximately 9:30 a.m., and will adjourn at approximately 5 p.m. The meeting may be lengthened or shortened, or agenda items rearranged depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Council Offices, Suntaug Office Park, 5 Broadway (Route One), Saugus, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Building, Five Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617) 231-0422.

Dated: October 31, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-34491 Filed 11-04-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Corps of Engineering, Department of the Army

Intent to Prepare Draft Environmental Impact Statement for Proposed Chief Joseph Dam Units Beyond 27 Project

AGENCY: U.S. Army Corps of Engineers, Department of Defense, Seattle District.

ACTION: Notice of Intent to prepare a draft environmental impact statement (EIS) for a proposed additional units project to Chief Joseph Dam on the Columbia River in eastern Washington. The project is known as Chief Joseph Dam Units Beyond 27.

SUMMARY:

a. *Proposed Action.* The Seattle District's tentatively selected plan of action involves adding two 350 megawatt power generating units (nameplate rating) to the existing 27 units at Chief Joseph Dam. This project would require addition to and modification of the dam for the construction of these new units. The selected plan is designed to supply additional hydroelectric capacity for peaking power purposes. This plan would result in a reduction of future water level fluctuations in Rufus Woods Lake (the reservoir created by Chief Joseph Dam), and an increase in water level fluctuations in upper Wells Dam Reservoir, the body of water immediately downstream of Chief Joseph Dam. As Corps studies progress, the selected plan may change.

b. *Alternatives.* Alternatives under consideration are other methods which could be used to achieve peaking power, or methods to reduce the demand for electricity. The most likely alternatives (other than the tentatively selected plan) which will be considered in detail in the draft EIS are: combustion turbines; pumped storage; the addition of power units at some other existing dam; a combination of combustion turbines, combined cycle plants, coal plants, and nuclear plants; load management; conservation; and the no Federal action plan. As studies progress, some of these alternatives may be dropped from consideration and others added.

c. *Public Involvement and Review.* In August 1972, public meetings were held for the *Columbia River and Tributaries Review Study*. This afforded citizens the opportunity to express ideas on water management in the Columbia River System. Public workshops to obtain views on areas of concern were continued during the spring and summer of 1973. Generally, the public expressed a preference for expansion of existing hydropower projects where possible, rather than construction of new projects. However, there were some public concerns over the expansion of existing Columbia River dams. The public expressed concerns over future increased water level fluctuations at Columbia River reservoirs (with subsequent adverse impacts to recreation and fish and wildlife) and adverse construction related impacts on local communities such as increased demand for utilities and schools brought about by influx of construction workers. A later stage public meeting for Chief Joseph Dam Units Beyond 27 Study was held in May 1976. A public brochure was issued in 1976, presenting the Chief Joseph Dam Units Beyond 27 Study. A public meeting is scheduled for 1981 concurrent with release of the draft EIS for public review.

d. *Significant Issues.* The following will be among the issues evaluated during planning and will be presented in the draft EIS: (1) How much peaking capacity is needed in the Northwest and when will it be needed? (2) Is the Corps of Engineers' selected plan the best method for producing peaking power? (3) What impact will be the selected plan and the other alternatives have on fish, fisheries, and fisherman safety? (4) What are the possible socioeconomic impacts on the local communities during construction? These and other issues will be addressed in the draft EIS.

e. *Other Environmental Review and Consultation Requirements.* Should the recommended plan involve the disposal

of dredged or fill material in waters of the United States and/or their adjacent wetlands, the draft EIS will contain a Section 404(b) evaluation.

f. *Availability of Draft EIS:* The draft EIS is presently scheduled to become available to the public in mid to late 1981.

g. *Address:* Information about the proposed action and draft EIS can be obtained by contacting: Mr. Paul Cooke, Environmental Resources Section, U.S. Army Corps of Engineers, Seattle District, Post Office Box C-3755, Seattle, Washington 98124, Telephone: (206) 764-3626.

Leon K. Moraski,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-34484 Filed 11-4-80; 8:45 am]

BILLING CODE 3710-GB-M

DEPARTMENT OF ENERGY

Procurement and Financial Assistance Directorate; Alternative Fuels Production Financial Assistance; Program Solicitations Availability

October 30, 1980.

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: This notice is to advise you of a solicitation to be issued shortly by the Department of Energy providing a total of up to \$30 million for feasibility studies and cooperative agreements for innovative systems for the direct combustion of minerals and organic materials other than petroleum and natural gas for energy production.

Pub. L. 96-369, the Joint Resolution making continuing appropriations for fiscal year 1981, which was recently signed by the President, expands the definition of alternative fuels for purposes of Pub. L. 96-126 and Pub. L. 96-304 to cover this technology area. The \$30 million is directed to be taken from the \$300 million appropriated under Pub. L. 96-304 for feasibility studies and cooperative agreements.

Innovative direct combustion technologies are those which represent a better way to burn minerals and organic materials than do conventional combustion systems which are in widespread use today. They are better in the sense that:

a. While meeting current environmental standards, they achieve potentially lower life cycle costs than conventional systems because of the choice of feedstock and/or combustion system designed to handle the feedstock, and/or,

b. They achieve better environmental performance at a given cost.

Direct combustion of urban waste is not covered under this solicitation.

Proposals for Feasibility Studies and Cooperative Agreements for the direct combustion of urban waste are eligible under the Program Solicitations No. DE-PS01-80RA50412 and DE-PS01-80RA50413 which was issued on August 1, 1980, and closed on September 30, 1980.

It is DOE policy to assure that small, socially and economically disadvantaged business, women owned business and Indian Tribes are afforded a reasonable opportunity to become equitably involved in its financial assistance programs, including those involving the growing alternative fuels industries. Accordingly, the Department encourages proposals from such groups and urges that other proposers make a special effort to substantively involve such businesses in projects offered for support under this solicitation. Teaming arrangements, joint ventures, or subcontracting are methods of such involvement.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Howard Feibus, Alternative Fuels Task Force, Resource Applications, Mail Station 3344, Room 3500, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461 Telephone 202/633-8365.

SUPPLEMENTAL INFORMATION: The Program Solicitation for grant application for feasibility studies, Number DE-PS01-81RA50535, and the Program Solicitation for cooperative agreement proposals, Number DE-PSCA01-81RA50536, will become available on or about November 5, 1980. Organizations desiring a copy of these solicitations should submit a request in writing to: U.S. Department of Energy, Resource Applications, Mail Station 3344, Room 3500, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Joseph P. Cappello,

Director, Office of Procurement Operations.

[FR Doc. 80-34515 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Marketing Policy Formulation; Procedure for Public Participation

AGENCY: Bonneville Power Administration, Department of Energy.

ACTION: Revision of Procedure for Public Participation in Marketing Policy Formulation.

SUMMARY: On December 14, 1977, the Bonneville Power Administration (BPA or Bonneville) published in the *Federal Register* its "Procedure for Public Participation in Marketing Policy Formulation" (42 FR 62950). Bonneville is now revising its Procedure to reflect the benefit of its experience in public participation.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-234-3361, extension 4261. Oregon callers may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048.

SUPPLEMENTARY INFORMATION: BPA is revising its procedures to reflect the benefit of its experience with its Public Involvement Program. In general, BPA believes that the revised procedure offers greater flexibility and clarity and that it incorporates the Administrative Procedure Act (APA) to the extent required by law. Although there are some substantive changes, the revision reflects numerous organizational changes which we believe will simplify both the administration and the public understanding of the procedure. The most significant changes are summarized below, arranged by section of the Procedure:

- Purpose and Scope.* We have clarified the applicability of the Procedure and specified exceptions.
- Definitions.* We have attempted to separate definitional material from procedural material throughout the document. We have alphabetized the procedural definitions and included definitions of BPA officials commonly involved in the public participation program. We have reworded the definition of Marketing Policy to conform more closely to the APA. In the definition of Evaluation of Official Record, we have specified items appropriate for inclusion. We have added a definition of Existing Marketing Policy, to clarify the applicability of this procedure to BPA policies currently in effect or being considered.

We have changed the definition of Notice to include notification by means other than the *Federal Register*, for those situations in which, due to the limited impact or local interest of a proposed policy, local notice is sufficient.

- Procedure for Establishing a Power Marketing Policy.* We have consolidated in this section all material relevant to procedural matters and the Administrator's decisionmaking. This

section also clarifies for interested persons the usual steps in policy development and the intervals when public participation may be most helpful.

- Promulgation of the Marketing Policy.* We have specified documentation in the Record of Decision and have allowed publication of the Notice elsewhere than in the *Federal Register*.

- Public Meeting Procedures.* We have added a section addressing the use of part or all of this Procedure in conducting public meetings held outside this process. This section gives implicit recognition to BPA's public involvement activities not subject to this published procedure.

- Emergency Marketing Policy Implementation.* This section was recently changed to bring it to conformity with the emergency provisions of the Department of Energy Organization Act of 1977. No further changes are made.

- Relationship to National Environmental Policy Act (NEPA) Requirements.* We have added a statement of BPA's intent to coordinate this Procedure with the public participation required under NEPA, whenever possible.

The text of the revised Procedure is as follows:

Procedure for Public Participation in Marketing Policy Formulation

- Purpose and Scope.* The purpose of this procedure is to enable interested persons to participate in the development of the Bonneville Power Administration's (Bonneville or BPA) marketing policies. The procedure is limited to Marketing Policy formulation.

This procedure shall govern the formulation of significant BPA marketing policies, except that the procedure shall not apply to:

- those policies where other procedures are expressly provided by law;
- those policies determined by Bonneville to be interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice, and which do not otherwise satisfy the definitions of Marketing Policy contained herein; or
- those policies which the Administrator decides are appropriate for the public meeting procedures described in Section 5 of this procedure.

2. Definitions.

- Administrator.* The Bonneville Power Administrator.
- Area Managers/District Managers.* BPA line officials responsible for BPA activities in designated geographical

areas, including but not limited to Power Management, Engineering and Construction, Operation and Maintenance, and policy implementation and administration. The Area and District Managers are local contact points for persons interested in BPA matters.

c. *Bonneville Power Administration* (Bonneville or BPA) The power marketing administration of the Department of Energy established by the Bonneville Project Act of 1937.

d. *Customer.* A person or entity having a direct relationship with Bonneville as the result of contractual arrangements for the purchase, exchange, transfer, assignment, or sale of electric power and energy, related services, or transmission capability to, with, or from BPA.

e. *Evaluation of Official Record.* A written evaluation of the Official Record by the Responsible Official to include part or all of the following: (1) The Proposed Marketing Policy and such alternatives as may be identified; (2) the Responsible Official's recommendation as to the preferred Policy or alternative and reasons therefor; (3) a summary of the principal research, analyses, and other available information discussing the need for, indicating support of, and illustrating the probable effect of such policy; and (4) a summary of the major comments, criticisms, support, and alternatives offered to the Proposed Policy or Revised Proposed Policy and an explanation of their acceptance or rejection. The evaluation may be expanded to include an assessment of revisions to the proposed Policy following the public comment period.

f. *Existing Marketing Policy.* A policy in effect as of the date of the publication of this procedure. This term also includes policies under consideration at the time of adoption of this procedure.

g. *Interested Person.* Any person, group, or entity with an interest in marketing policies.

h. *Marketing Policy.* The whole or a part of a significant agency statement of general or particular applicability and future effect designed to implement, explain, or prescribe power marketing law or policy, which would raise substantial issues of fact or law or which is likely to have substantial impact on the Nation's economy or large numbers of individuals or businesses. Marketing Policies are those policies which involve the manner but not the particular instances in which BPA sells, exchanges, or otherwise disposes of or acquires electric power and energy.

i. *Notice.* A notification required by this procedure and published in the **Federal Register** or elsewhere where

actual and timely notice of the proposed policy can be assured. Most Notices will be published in the **Federal Register**. However, Notices of a restricted nature or Notices of a limited or local applicability may be published elsewhere if (1) directed by the Administrator, and (2) if reasonably calculated to give actual and timely notice. By **Federal Register** Notice, or as otherwise herein provided, BPA will give notice of its intent to (1) develop a new Marketing Policy or to revise an Existing Marketing Policy; (2) present a Proposed Marketing Policy or a Revised Proposed Marketing Policy; (3) announce opportunities for interested persons to comment on the Proposed Marketing Policy; and (4) promulgate the Marketing Policy as adopted by the Administrator.

Notices shall be effective on date of publication unless otherwise stated. Wherever a time period is provided, the date of publication shall determine the commencement of the time period unless otherwise stated.

j. *Official Record.* Except as otherwise may be expressly provided by law, the compiled and indexed records which document the development of the new or revised Marketing Policy. The Official Record is the responsibility of the Public Involvement Coordinator and shall contain the following: (1) All **Federal Register** or other Notices provided for by these procedures; (2) the principal research, analyses, and other available information or a summary thereof used in developing the Policy; (3) the transcribed record of any Public Information or Public Comment Forums, including documents and exhibits presented at the Forums, written comments and questions from interested persons, and BPA's replies; (4) records or minutes of workshops or other meetings on the Policy; (5) Evaluation of the Official Record; (6) the Record of Decision; and (7) any other information the Responsible Official determines is relevant. The Official Record shall be available for inspection or copying.

k. *Proposed Marketing Policy.* A new Marketing Policy or revision of an Existing Marketing Policy under consideration for adoption.

1. *Public Involvement Coordinator.* The BPA employee responsible for monitoring the development of new Marketing Policies or revisions to Existing Marketing Policies to assure the opportunity for an documenting the involvement of interested persons in policy development. The Public Involvement Coordinator receives public comment, maintains the Official Record, and supplies pertinent information to interested persons.

m. *Record of Decision.* A summary of the decision. It may include: findings of fact, statements of applicable law, major areas of controversy, options considered with their respective evaluations, principal objections to and statements in support of the proposed new or revised Policy submitted by interested persons with summaries of BPA's consideration, the recommendation, and the reasons for the Administrator's decision.

n. *Responsible Official.* The BPA employee designated by the Administrator as responsible for the development of a proposed new or revised Marketing Policy.

o. *Revised Proposed Marketing Policy.* A Proposed Marketing Policy which is changed so significantly as to constitute, in the opinion of the Administrator, a new Proposed Marketing Policy.

3. *Procedure for Establishing a Power Marketing Policy.*

a. *Decision to Formulate a Power Marketing Policy and Notice of Intent.* When the Administrator determines the need for a new or revised Marketing Policy, BPA shall publish in the **Federal Register**, or elsewhere if so decided by the Administrator, a Notice of its intent to formulate or revise the policy. The purpose of the Notice of Intent is to offer to interested persons the opportunity to make recommendations on the policy to be developed. Notice shall include the following: (1) The subject of the proposed Policy; (2) the legal authority under which the Policy is proposed; (3) a statement of the principal research, analyses, and other available information discussing the need for and the probable effect of the Policy; (4) an indication of the extent to which other existing policies might be affected by the development of a new Policy; (5) a request for written recommendations for BPA's use in formulating or revising the Policy, and the time limit for the receipt of such recommendations; and (6) the name, address, and telephone number of the Bonneville official who will receive them.

The Administrator or the designated Responsible Official may send a written announcement to persons who have previously expressed an interest in the general subject area of consideration, or to persons who, in the opinion of the Responsible Official, could reasonably be expected to have such an interest. The Responsible Official may also direct that an announcement be made in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable.

b. *Notice of Proposed Marketing Policy.* No less than 30 days after the

publication of the Notice of Intent, BPA shall publish in the **Federal Register**, or elsewhere if so decided by the Administrator, a Notice of the Proposed Marketing Policy. The Notice shall include (1) the text of the Proposed Marketing Policy; (2) the legal authority under which the Policy is proposed; (3) an indication of the extent to which other existing policies will be affected by the proposed Policy; (4) the dates, times, and locations of scheduled Public Information Forums or Public Comment Forums; (5) procedures by which interested persons may participate in the Forums; (6) a request for written comments on the Policy and the time limit for the receipt of such comments; (7) the name, address, and telephone number of the BPA official(s) to contact for further information; and (8) any other information considered necessary by the Responsible Official.

Announcement may also be made by mail to those persons who have requested in writing that they receive written material on the Proposed Marketing Policy. Further announcement may also be made in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable.

c. Combination of Notices. Notwithstanding the 30-day limitation set forth in 3(b) above, the Administrator or the Responsible Official may elect to combine the above Notices. If so, the reason shall be reflected in the Notice.

d. Public Information Forum. Public Information Forums are optional. The Responsible Official will determine the need for and scope of such meetings based on factors such as an assessment of actual or expected public interest in the policy, the complexity of the subject, the anticipated degree of impact, or the necessity.

The purpose of a Public Information Forum is to present information about a Proposed Marketing Policy to persons interested in that Policy. Bonneville will consider the use of two types of meetings: (1) Technical meetings for customers and other persons who would like the benefit of detailed staff briefings, and (2) more general meetings for other interested persons. One or more of both types of Public Information Forums may be scheduled based on the criteria stated above.

Meeting dates, times, and locations shall be announced in the **Federal Register** or elsewhere if so decided by the Administrator, and may be announced in one or more general circulation newspapers in the BPA marketing area or through other

effective means of publicity, as necessary or desirable. Meeting notices shall include a statement of the subject and purpose, dates, times, places, and procedures for the forum. A 15-day notice will be provided whenever possible.

The Responsible Official shall act as or appoint the forum chairman. A transcribed account shall be kept of each forum, and the transcript shall be part of the Official Record. Questions raised at the forum may be answered at the forum or later, either (1) prior to publication of the final policy, or (2) as a part of the Official Record. Transcripts of Public Information Forums shall be available for review at the Area or District Office in the locality where the Forum is held. Copies of the transcripts of all Public Information Forums shall be available for review in the office of the Public Involvement Coordinator.

e. Public Comment Forum. One or more Public Comment Forums shall be scheduled on the Proposed Policy for the purpose of enabling interested persons to present their views on the Proposed Marketing Policy. The Responsible Official shall determine the number, dates, locations, and time of day of such forums. Announcement of the Forums shall be published in the **Federal Register** or elsewhere, as the Administrator so directs, either in the Notice of Proposed Marketing Policy or in a separate Notice. The announcement shall include the name, subject, and purpose of the Policy; the dates, times, places, and procedures for the forum, and a list of the principal research, analyses, and other available information discussing the need for, in support of, and illustrating the probable effect of the Policy. The announcement shall also indicate the time period for receipt of comments, and the names, addresses, and telephone numbers of BPA officials from whom additional information can be obtained. The Notice may contain additional material considered necessary by the Responsible Official. Additional notice may be given in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable.

The Responsible Official shall act as or appoint the forum chairman. At the beginning of a forum, the chairman shall explain the procedures governing the proceedings.

BPA shall offer interested persons the opportunity for oral presentation of views, data, and arguments. Persons wishing to speak should notify the BPA Public Involvement Coordinator or the Area or District Manager of the locality

in which the forum will be held at least 3 days before a forum to permit preparation of a tentative schedule of participants. The chairman may establish time limitations for oral presentations to assure that all interested persons who desire to speak shall have an opportunity to do so. Forum proceedings shall be transcribed. Transcripts of Public Comment Forums shall be available for review at the Area or District Office in the locality where the forum is held. Copies of the transcripts of all Public Comment Forums shall be available for review in the Office of the Public Involvement Coordinator.

f. Additional Opportunity for Comment. Opportunity for interested persons to participate in Marketing Policy formulation through submission of written data, views, or arguments shall be provided. Written comments on the Proposed Policy will be received from the date of publication of the Notice of Proposed Policy for a minimum of 30 days.

g. Evaluation of the Official Record. Following the comment period, the Responsible Official shall prepare an Evaluation of the Official Record, which shall be submitted to the Administrator. The Administrator shall decide whether to adopt, modify and adopt, or reject the Proposed Marketing Policy.

h. Revised Proposed Marketing Policy and Review Period for Revised Proposed Marketing Policy. After the Evaluation of the Official Record, the Administrator may determine that there have been changes in the Proposed Marketing Policy of such significance as to constitute a new proposal. If that occurs, the Administrator will direct that a Notice be published, in the **Federal Register** or elsewhere, which will include the following: (1) The text of the revision; (2) a list of the principal research, analyses, or other available information discussing the need for, indicating support of, and illustrating the probable effect of the Revised Proposed Marketing Policy to the extent that such information was not earlier available; (3) the dates, times, locations, and procedures for any additional Public Information and/or Public Comment Forums, if any; (4) a request for written comment and the time limit for receipt of such comments; and (5) the names, addresses, and telephone numbers of the BPA officials from whom additional information is available.

Interested persons shall be given a minimum of 30 days following such publication to comment on the Revised Marketing Policy. An Addendum to the Evaluation of the Official Record shall be prepared by the Responsible Official,

reflecting the Revised Proposed Marketing Policy and the consideration given additional comments received by BPA. This material shall be a part of the Official Record.

4. Promulgation of the Marketing Policy. The Responsible Official shall submit the Evaluation of the Official Record with any addenda to the Administrator for promulgation of a final Policy. The Administrator shall decide whether to adopt, modify and adopt, or reject the Proposed Marketing Policy or the Revised Proposed Marketing Policy.

The decision shall be documented in a Record of Decision which shall be signed by the Administrator and which will be a part of the Official Record.

BPA shall publish, in the **Federal Register**, or elsewhere if so decided by the Administrator, Notice of the adoption of a final Marketing Policy. The Policy shall become effective on the date of publication of the Notice unless otherwise specified.

5. Public Meeting Procedures. The Administrator may determine, in those circumstances where (1) formulation of a nonsignificant marketing policy is under consideration, or (2) in such other circumstances as determined by the Administrator to be beneficial, to utilize part or all of these procedures in conducting a public meeting to obtain the views of interested persons on a proposed BPA action. Notice of a public meeting need not be published in the **Federal Register**, but the Administrator shall use other effective means of publicity as are reasonable or desirable to notify concerned or affected persons of the nature and probable effect of BPA's proposed action.

6. Emergency Marketing Policy Implementation. The requirements of publication of Notice, minimum comment period, opportunity for presentation of views, and formal promulgation of Marketing Policies, as established by this Procedure and as may otherwise be required by law, shall be waived where those policies are (a) adopted on an interim basis and (b) after a finding by the Administrator that strict compliance is likely to cause serious harm or injury to the public health, safety, or welfare, or for good cause shown, that such procedure is impractical, unnecessary, or contrary to the public interest. Such finding will be set out in detail in the interim policy. In the event that the procedure is waived, the requirements shall be satisfied within a reasonable period of time subsequent to the promulgation of the interim Policy by utilization of the procedure then in effect.

7. Relationship to National Environmental Policy Act (NEPA) Requirements. In those instances in which a power marketing policy under consideration requires an Environmental Impact Statement, the Public Participation procedure will be coordinated to the fullest extent possible with those required under NEPA. Joint Notices will be issued and meetings combined when possible.

Dated: October 28, 1980.

Ral Foleen,

Acting Administrator.

[FR Doc. 80-34512 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[**ERA Case Nos. 51685-2511-01-82, 51685-2511-02-82**]

Long Island Lighting Co., Mineola, N.Y.; Extension of Public Comment Period on Proposed Prohibition Orders Issued Pursuant To Sections 301 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice, pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, and 10 CFR 501.51(b)(3), that the initial three month public comment period relating to two Proposed Prohibition Orders published July 31, 1980, (45 FR 50866), is extended to November 28, 1980.

Basis for Extending the Public Comment Period

The notice of Proposed Prohibition Orders issued to two powerplant units (E. F. Barrett 1 and 2) owned by Long Island Lighting Company (Utility), provided a public comment period of at least three months. By a letter dated October 17, 1980, the Utility has requested an extension of the comment period for the following reason:

The Utility needs additional time to accumulate and prepare financial data using the latest capital cost estimates required to address the statutory findings under FUA financial feasibility.

Schedule Submitted by the Utility

The Utility has proposed to respond to evidentiary requirements (relating to the statutory findings under FUA) by November 28, 1980.

Extension of Comment Period

For the reasons set forth above, ERA hereby extends the initial comment period with respect to the Proposed

Prohibition Orders for Barrett Units 1 and 2 until November 28, 1980.

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, (202) 653-4055.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3000, Washington, D.C. 20461, (202) 653-3649.

Douglas F. Mitchell (Office of General Counsel), Department of Energy, 1000 Independence Avenue, SW., Room 6C-087, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C., October 30, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-34511 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

[**ERA Case Nos. 52007-1626-01-82, 52007-1626-02-82, 52007-1626-03-82**]

New England Electric System Westborough, Massachusetts; an Extension of Public Comment Period on Proposed Prohibition Orders Issued Pursuant to Sections 301 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice, pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, and 10 CFR 501.31, that the initial public comment period relating to three Proposed Prohibition Orders, published April 3, 1980, (45 FR 22183), previously extended to November 1, 1980, is further extended to May 1, 1981.

Basis for Extending the Public Comment Period

The notice of Proposed Prohibition Orders issued to three powerplant units (Salem Harbor 1, 2 and 3) owned by New England Power Company, of the New England Electric System (Utility), provided an initial public comment period of at least three months from publication in the **Federal Register** on April 3, 1980. By letters dated May 9 and May 27, 1980, the Utility requested and set forth reasons for extending the public comment period. One of the reasons was to allow the Utility sufficient time to conduct computer modeling of air quality for the proposed

coal burning at the Salem Harbor Generating Station and to discuss the results of that modeling with the appropriate environmental agencies. ERA, by order published in the **Federal Register** on July 1, 1980 (45 FR 44370) granted an extension of the initial comment period to November 1, 1980.

In its letter, dated September 15, 1980, the Utility indicated that it has complied with its schedule and has completed the computer modeling of air quality. Modeling results, according to the Utility, are under review with the Massachusetts Department of Environmental Quality Engineering (DEQE) and Region I of EPA. Discussions with these agencies indicate that a more detailed investigation of air quality effects will be required, including additional monitoring or fluid model testing before the impacts of predicted emissions from coal burning can be properly evaluated.

The Utility preliminarily estimates that the additional analysis could require at least six months to complete and evaluate and, accordingly, has requested a further extension of the initial comment period from November 1, 1980, to May 1, 1981.

Extension of Comment Period

For the reasons set forth above, ERA, hereby extends the initial comment period until May 1, 1981.

For Further Information Contact

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.

Steven A. Frank (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20585, (202) 653-4187.

James Renjilian (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6G-087, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C., October 30, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-34513 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Warren Holding Co.; Action Taken on Consent Order

Pursuant to 10 CFR 205.199], the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199](c), no Consent Order involving sums in excess of \$500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms.

On September 12, 1980, ERA published a Proposed Consent Order which was executed between Warren Holding Company and the ERA (45 Fed. Reg. 60470-179, September 12, 1980). With this notice, and in accordance with 10 CFR 205.199], ERA invited interested persons to comment on the proposed Consent Order. No one submitted comments on the terms and conditions of the Consent Order. The ERA has concluded that the Consent Order as executed between ERA and Warren Holding Company is an appropriate resolution of the compliance proceedings described in the Notice published September 12, 1980, and hereby gives notice that the Consent Order shall become effective as proposed on September 12, 1980.

Proposed Remedial Orders—Central District

Station	Address	Date	Violation amount	Cents per gallon in violation
Saylorville Marina	Box 207, Polk City, IA 50226	10-8-80	\$490.26	4.4
Red Rock Marina	R.R. #1, Pella, IA 50219	10-8-80	360.90	17.4
South Fork Marina	Route 1, Mystic, IA 52574	10-22-80	1,806.06	15.8
Glen Elder Marina & Store	514 East 6th, Beloit, KS 67420	10-21-80	1,796.31	11.3
Lighthouse Harbor Marina	P.O. Box 23, Hermitage, MO 65668	10-8-80	600.00	8.1
Nemo Landing Marina	Star Route, Box 104, Pittsburg, MO 65724	10-20-80	1,085.04	23.8

[FR Doc. 80-34423 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Union Oil Company of California's Application for Permission to Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Petition and Request for Comments.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that, on October 20, 1980, Union Oil Company of California (Union), in accordance with the provisions of 10 CFR 205.90 *et seq.*

Issued in Philadelphia, Pa., this 20th day of October, 1980.

Edward F. Momorella,
District Manager, Office of Enforcement,
Northeast District.

[FR Doc. 80-34429 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders; Central District

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, D.C. 20461, phone 202/653-3569. On or before December 5, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 30th day of October 1980.

James J. Fenton,

Acting Director, Enforcement Program Operations Division, Economic Regulatory Administration.

and § 211.10(b), filed an application for permission to use multiple allocation fractions. The relief, if granted, would enable Union to use a separation allocation fraction for its marketing of '76 Racing Gasoline, the distribution of which is asserted to be separate from and independent of that which is used for Union's commercial gasoline distribution.

A copy of Union's application, with proprietary material deleted, may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the Economic Regulatory Administration, Office of Petroleum Operations, Room 2104-I, 2000 M Street NW., Washington, D.C. 20461.

DATE: Interested firms may submit comments on Union's application to the address listed below until the close of business ten (10) working days after the appearance of this notice in the **Federal Register** (November 17, 1980).

ADDRESS: Send comments to:

Economic Regulatory Administration,
Office of Petroleum Operations, Room
2104, 2000 M Street, NW., Washington,
D.C. 20461, Attn: Alan T. Lockard.

FOR FURTHER INFORMATION CONTACT:

John A. Caryle, Economic Regulatory
Administration, Office of Petroleum
Operations, Room 2104-I, 2000 M
Street NW., Washington, D.C. 20461,
Telephone: (202) 653-3751.

Joel M. Yudson, Office of the General
Counsel, Room 6A-127, 1000
Independence Avenue SW.,
Washington, D.C. 20585, Telephone:
(202) 252-6744.

Issued in Washington, D.C., on the 29th day
of October 1980.

Paul T. Burke,

*Acting Assistant Administrator, Office of
Petroleum Operations, Economic Regulatory
Administration.*

[FR Doc. 80-34421 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

**Federal Energy Regulatory
Commission**

[Docket No. CP81-27-000]

**Columbia Gas Transmission Corp.;
Application**

October 31, 1980.

Take notice that on October 21, 1980,
Columbia Gas Transmission
Corporation (Applicant), P.O. Box 1273,
Charleston, West Virginia 25325, filed in
Docket No. CP81-27-000 an application
pursuant to Section 7(c) of the Natural
Gas Act for a certificate of public
convenience and necessity authorizing
the construction of 68 interconnecting
tap facilities to provide additional points
of delivery to existing wholesale
customers, all as more fully set forth in
the application which is on file with the
Commission and open to public
inspection.

Applicant proposes the following new
points of delivery for the following
wholesale customers:

- (1) Columbia Gas of Kentucky, Inc.: 3 taps for residential service; 4 taps for commercial service.
Estimated annual usage of 11,550 Mcf.
- (2) Columbia Gas of Ohio, Inc.: 31 taps for residential service; 1 tap for commercial service.
Estimated annual usage of 5,775 Mcf.
- (3) Columbia Gas of Pennsylvania, Inc.: 2 taps for residential service; 1 tap for commercial service.

- Estimated annual usage of 10,100 Mcf.
- (4) Columbia Gas of West Virginia Inc.: 18 taps for residential service; 1 tap for intrastate wholesale sale.
Estimated annual usage of 2,700 Mcf.
- (5) The Dayton Power and Light Company: 2 taps for residential service; 2 taps for combined residential and industrial service; 2 taps for industrial service.
Estimated annual usage of 7,365 Mcf.
- (6) West Ohio Gas Company: 1 tap for residential service.
Estimated annual usage of 140 Mcf.

Applicant states that 57 of the proposed taps would be for residential service and 11 taps would be for commercial end uses. Applicant states that authorization is necessary to provide service for the 1980-81 heating season.

Applicant states that 67 of the requested taps for delivery would have an average cost of \$300 each and the re-establishment of commercial service for Wayne Gas would have an estimated cost of \$2,200. It is stated that the estimated total cost of \$22,395 would be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10), and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-34472 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-15-000]

**Kansas-Nebraska Natural Gas Co., Inc.;
Application**

October 31, 1980.

Take notice that on October 14, 1980,
Kansas-Nebraska Natural Gas
Company, Inc. (Applicant), P.O. Box 608,
Hastings, Nebraska 68901, filed in
Docket No. CP81-15-000 an application
pursuant to Section 7(c) of the Natural
Gas Act for a certificate of public
convenience and necessity authorizing
the sale of natural gas to Panhandle
Eastern Pipe Line Company (Panhandle),
all as more fully set forth in the
application which is on file with the
Commission and open to public
inspection.

Applicant proposes to sell natural gas pursuant to a gas sales, transportation and gathering agreement dated June 3, 1980, between Applicant and Panhandle. It is stated that said agreement provides for the optional purchase of a portion of the natural gas delivered by Applicant to Panhandle for transportation in Ellis County, Oklahoma, and the gathering, transportation and redelivery of up to 10,000 Mcf per day by Panhandle to Applicant at an existing interconnection of the two companies' facilities in Reno County, Kansas. Applicant states that both companies have active gas acquisition programs in Ellis County, Oklahoma, and that this agreement avoids the unnecessary duplication of facilities.

It is stated that in partial consideration for the transportation service, Panhandle would have the right to purchase 25 percent of the gas delivered by Applicant other than gas attributable to any working interest owned by Applicant. Applicant states that Panhandle would pay the weighted average price Applicant paid for said gas. It is stated that Applicant would also pay Panhandle a gathering fee of 26.83 cents per Mcf and a transportation charge of 6.95 cents per Mcf and would reimburse Panhandle in kind for compressor fuel in an amount equal to 0.5 percent of the volumes delivered to Panhandle per month.

Applicant states that the arrangement does not require Applicant to construct any new facilities. It is stated that the

redelivery point facilities are in existence and that Panhandle has applied for authorization for the transportation service and the facilities necessary therefor.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-34473 Filed 11-4-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. SA80-111-000]

**Northwestern Public Service Co.;
Application for Adjustment and for
Interim Relief**

October 30, 1980.

Take notice that on October 6, 1980, Northwestern Public Service Company, Northwestern National Bank Building, South Dakota 57350 (Northwestern) filed with the Federal Energy Regulatory Commission (Commission) an

application for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301 *et seq.*), and § 1.41 of the Commission's regulations. Northwestern seeks relief from certain alternative fuel price ceilings set forth in 18 CFR 282.404.

Specifically, Northwestern states that it is a distribution utility serving 24 communities in the State of South Dakota with natural gas supplied by Northern Natural Gas Company (Northern). The South Dakota Public Utilities Commission requires Northwestern to charge its incrementally priced gas users a surcharge up to the price of the Btu equivalent fuel as determined under this Commission's incremental pricing program. Northwestern states that the actual price of No. 6 fuel oil available to its incrementally priced users is substantially lower than the prices posted by the Energy Information Administration (EIA) of the U.S. Department of Energy, under this Commission's program. For this reason, Northwestern states, it has continued to lose a significant amount of load to No. 6 fuel oil. Moreover, Northwestern states that the EIA's posted prices have been substantially higher for South Dakota than for the surrounding states, indicating that the EIA's data are inaccurate. In addition, Northwestern asserts that market factors indicate that the disparity between EIA ceiling prices and actual prices will continue.

Northwestern states that it will suffer special hardship, inequity, and unfair distribution of burdens because the continued loss of sales to incrementally priced users will result in additional fixed costs being absorbed by Northwestern's other customers.

Northwestern requests that it be allowed to adjust the incremental pricing surcharge for each transaction in which it is necessary to meet a price lower than the EIA posted ceiling price for No. 6 fuel oil.

Northwestern further requests interim relief pursuant to § 1.41(m) of the Commission's regulations and any other additional relief the Commission deems appropriate under the circumstances.

The procedures applicable to the conduct of this adjustment proceeding are found in 18 CFR 1.41 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provision of § 1.41. All petitions to

intervene must be filed on or before November 20, 1980.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-34474 Filed 11-4-80; 8:45 am]
BILLING CODE 6450-85-M

Southeastern Power Administration

**Cumberland System; Intent to
Formulate Power Marketing Policy**

AGENCY: Southeastern Power Administration (SEPA), Department of Energy.

ACTION: Intent to formulate policy for Cumberland System of Projects.

SUMMARY: Pursuant to Procedure for Public Participation in the Formulation of Marketing Policy published in the Federal Register of July 6, 1978, 43 FR 29186, SEPA intends to develop new written marketing policy for future disposition of power from its Cumberland System of Projects, including the Laurel Project.

Existing power marketing policy for SEPA's Cumberland System is reflected in contracts involving such system power maintained in its headquarters offices and in an application to the Federal Energy Regulatory Commission (FERC) for a wheeling order, FERC Docket No. EL80-7. A complete review of such policy will be made.

SEPA will formulate a policy for the nine project system effective with the expiration of existing contracts or reasonable extensions thereof. The policy will address to the extent feasible those policy elements necessary to carry out the provisions of Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s. Proposals and recommendations for consideration in formulating the proposed new written marketing policy are solicited as are requests for further information or consultation.

DATES: All submissions or requests should be made as soon as possible but not later than January 19, 1981.

ADDRESSES: Five copies of written proposals or recommendations should be submitted to the Administrator, Southeastern Power Administration, Elberton, Georgia 30635, (404) 283-3261. Further inquiries and requests should be made to the same official.

SUPPLEMENTARY INFORMATION: The Cumberland System presently consists of Barkley, Center Hill, Cheatham, Cordell Hull, Dale Hollow, Old Hickory, J. Percy Priest and Wolf Creek Projects which are interconnected with and integrated through the Tennessee Valley Authority (TVA) System. SEPA expects to add the Laurel Project to the

integrated system, the output of which is now marketed to the East Kentucky Power Cooperative.

SEPA presently markets power from the Cumberland System to the Big Rivers Electric Corporation, Indiana Statewide Rural Electric Cooperative, Hoosier Energy Division, Southern Illinois Power Cooperative, East Kentucky Power Cooperative and TVA. Numerous other preferred agencies not now purchasing power from SEPA have expressed interest in purchasing power from the Cumberland System.

Issues which SEPA expects to consider in developing policy for the Cumberland System include, but are not limited to, the following: (1) determination of marketing area, (2) allocation of power among customers within the marketing area, (3) extent of sales to TVA or within the TVA service area, (4) utilization of area utility systems for power integration, firming, wheeling, and other essential relationships, (5) handling of resale rates, and (6) conservation measures. Following development of SEPA's proposed marketing policy for the Cumberland System, further public participation as provided in the Procedure referenced in the Summary section of this Notice will be invited and resulting comments will be fully considered prior to issuance of the final marketing policy.

Issued in Elberton, Georgia, October 24, 1980.

Harry F. Wright,
Administrator.

[FR Doc. 80-34514 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Office of the Special Counsel for Compliance

Action on Consent Order with Tenneco Oil Co.

AGENCY: Department of Energy (DOE).
ACTION: Adoption of Proposed Consent Order as Final.

SUMMARY: The Office of the Special Counsel for Compliance (OSC) hereby gives the notice required by 10 CFR 205.199 that it has adopted the consent order with Tenneco Oil Company (Tenneco), executed on August 21, 1980 and published for comment in 45 FR 60001 on September 11, 1980. The consent order resolves all issues of compliance with the DOE Petroleum Price Regulations for the period August 19, 1973 through February 29, 1980, as applied to Tenneco's calculation of its May 1973 per gallon cost of purchased motor gasoline. To remedy any

overcharges that may have occurred during the period, Tenneco agrees to \$22.26 million in remedies.

As required by the regulation cited above, OSC has received comments on the consent order for a period of not less than 30 days following publication of the notice cited above. No comments were received. Accordingly, OSC determined that the consent order should be made final without modification. The consent order is effective as an order of the Department of Energy (DOE) on November 5, 1980.

FOR FURTHER INFORMATION CONTACT:

George Kielman, Associate Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 4111, Washington, D.C. 20461, 202-633-9557.

Copies of the consent order may be received free of charge by written request to:

Tenneco Oil Company, Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 4111, Washington, D.C. 20461.

Copies may also be obtained in person in Room 3109 of the same street address noted above or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Room 5B-180, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION:

The Consent Order

On September 11, 1980, OSC published notice in Volume 45 of the *Federal Register* at page 60001, announcing the execution of the consent order between Tenneco Oil Company and OSC. In compliance with DOE regulations, that notice and a press release issued on September 5, 1980, briefly summarized the consent order and the facts behind it. Instructions were also provided for obtaining copies of the consent order.

The consent order can be summarized as follows:

1. The consent order resolves all issues related to Tenneco's compliance with the DOE Petroleum Price Regulations for the period August 19, 1973 through February 29, 1980, arising out of Tenneco's calculation of its May 1973 per gallon cost of purchased motor gasoline. An audit initiated by DOE's predecessors lead to allegations that Tenneco had not calculated its cost of purchased motor gasoline in accordance with applicable statutes and regulations. While Tenneco maintains that its calculations were pursuant to the applicable statutes and regulations, both

parties being desirous of resolving the issues without resort to complex, lengthy and expensive litigation, entered into the consent order as a satisfactory resolution of disputed issues.

2. Tenneco has agreed to remedies for possible overcharges totalling \$22.26 million in settlement of this dispute. This amount consists of three major components.

3. Tenneco shall prepare a list of wholesale customers who purchased from it in June 1974, along with the amount of refund due to each. A total of \$1,244,100 shall be refunded to such customers by check or credit memorandum. Any portion of this amount not actually refunded shall be added to the cash payment discussed below.

4. A total of \$1,017,900 shall be made payable to the United States Department of Energy, for deposit into the United States Treasury.

5. Tenneco, as of the effective date of this consent order, shall reduce its then-current bank of unrecovered increased costs attributable to motor gasoline by the sum of \$20,000,000.00.

Comments Received

OSC has received no comments from any source concerning this consent order. Having received no comments, OSC has not found any reason to modify or rescind the proposed consent order. Accordingly, OSC has determined that the proposed consent order with Tenneco should be made final, effective November 5, 1980.

Issued in Washington, D.C., this the 23d day of October 1980.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 80-34422 Filed 11-1-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AS-FRL 1654-7]

Performance Review Board; Change in Membership

AGENCY: Environmental Protection Agency.

ACTION: Notice of change in membership of the Performance Review Board.

SUMMARY: This Notice announces revision of the membership of the Agency's Performance Review Board (PRB) to reflect the departure of two original members and the appointment of two new individuals as members of the body. The Administrator of the Environmental Protection Agency (EPA) established the Performance Review

Board under provision of Section 4314 of Title 5, United States Code, and the Agency published, in the **Federal Register** of May 20, 1980, a Notice announcing its establishment and the appointment of the twelve original members.

The purpose of the Performance Review Board is to review initial senior executive appraisals and to make recommendations to the Administrator concerning performance of senior executives in the Agency and performance awards.

ADDRESSES: The names, titles, and addresses of the individuals now appointed to the EPA Performance Review Board follow, with new appointees marked by an asterisk (*) preceding their name.

Mr. David O. Bickart, Deputy General Counsel, Office of General Counsel, Environmental Protection Agency, Washington, D.C. 20460.

Dr. Marilyn C. Bracken, Deputy Assistant Administrator for Program Integration and Information, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460.

Mr. Charles L. Elkins, Deputy Assistant Administrator for Noise Abatement and Control, Office of Air, Noise and Radiation, Environmental Protection Agency, Washington, D.C. 20460.

Ms. Louise Giersch, Director, Air and Hazardous Materials Division, Region IX, Environmental Protection Agency, San Francisco, California 94105.

Mr. Clarence Hardy, Director of Personnel, Office of Planning and Management, Environmental Protection Agency, Washington, D.C. 20460 (Executive Secretary, PRB).

Mr. Robert J. Knox, Acting Director, Office of Civil Rights, Environmental Protection Agency, Washington, D.C. 20460.

Ms. Marian Mlay, Associate Deputy Assistant Administrator for Drinking Water, Office of Water and Waste Management, Environmental Protection Agency, Washington, D.C. 20460.

*Mr. Christopher N. Palmer, Executive Assistant to the Deputy Administrator, Environmental Protection Agency, Washington, D.C. 20460.

Ms. Frances E. Phillips, Deputy Regional Administrator, Region VI, Environmental Protection Agency, Dallas, Texas 75270.

*Mr. Edward E. Reich, Director, Division of Stationary Source Enforcement, Office of Enforcement, Environmental Protection Agency, Washington, D.C. 20460.

Mr. Samuel Rondberg, Director, Office of Research Program Management, Office of Research and Development, Environmental Protection Agency, Washington, D.C. 20460.

Mr. Saul R. Rosoff, Associate to the Assistant Administrator for Management Reform, Office of Planning and Management, Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Persons desiring any further information about the Environmental Protection Agency Performance Review Board may contact Mr. Clarence Hardy, Director of Personnel, Environmental Protection Agency, Washington, D.C. 20460; telephone (202) 755-2922.

Douglas M. Costle,
Administrator.

October 29, 1980.

[FR Doc. 80-34432 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-36-M

[SA-FRL 1655-4]

Science Advisory Board, Technology Assessment and Pollution Control Committee; Closed meeting

Notice is hereby given, pursuant to Public Law 92-463, that a meeting of an ad-hoc committee of the Science Advisory Board will be held in Washington, D.C. on December 2, 1980, to determine the recipients of the Agency's 1980 Scientific and Technological Achievement Awards. These awards are established to give honor and recognition to EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities.

Pursuant to Section 10(d) of 5 U.S.C. Appendix 1 and 5 U.S.C. Section 552b(c), I hereby determine that this meeting is concerned with information exempt from disclosure and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. In selecting the recipients for awards, and in determining the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will, inevitably, involve personal as well as professional judgments, could cause unnecessary embarrassment, particularly for those EPA employees not selected to receive awards, and disclosure would constitute a clearly unwarranted invasion of personal privacy.

The Science Advisory Board shall be responsible for maintaining records of

the meeting, and for providing an annual report setting forth a summary of the meeting consistent with the policy of 5 U.S.C. Appendix 1, Section 10(d).

Douglas M. Costle,
Administrator.

October 29, 1980.

[FR Doc. 80-34433 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-34-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing and Notification of Cut-Off List; Correction

FM and TV Translator Applications Ready and available for processing and notification of Cut-Off List, to be release November 28, 1980, has been extended to December 5, 1980

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on December 5, 1980.

The following entry appeared on the Public Notice (Mimeo 00607) released November 28, 1980, listing translator applications which would be considered as ready and available for processing on November 25, 1980.

BPFT-800912IS—NEW—Traverse City, Michigan: Jack G. Martin d.b.a. Martin TV Sales & Service also, Northern Tower Erection Company. Req: Channel 232, 94.3 MHz, 1000 watts. Primary: WITW-FM, Cadillac, Michigan.

The entry is corrected to ready as follows:

BPFT-800912IS—NEW—Traverse City, Michigan: Jack G. Martin d.b.a. Martin TV Sales & Service also, Northern Tower Erection Company. Req: Channel 232, 94.3 MHz, 1 watts. Primary: WITW-FM, Cadillac, Michigan.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 80-34417 Filed 11-4-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1255]

Petitions for Reconsideration of Actions in Rule Making Proceedings

October 30, 1980.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR § 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before November 20, 1980. Replies to an opposition must be filed within 10 days

after the time for filing oppositions has expired.

Subject: Amendment of Parts 1, 2 and 90 of the Commission's Rules and Regulations to implement a system of temporary licensing for multiple licensed mobile relay systems operating in the Business Radio Service in the 450-470 MHz band. (PR Docket No. 79-338, RM-3470)

Filed by: Joseph M. Kittner, Lawrence J. Movshin & A. Thomas Witherington, Attorneys for General Electric Company on 10-14-80.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 80-34416 Filed 11-4-80; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services (RTCM); Meeting Change

The meeting of RTCM Special Committee No. 76, "Maritime Advisory Committee in Preparation for the 1982 Mobile WARC," previously announced for Wednesday, 12 November 1980, has been changed to Monday, 10 November 1980. The time, site, and agenda remain unchanged.

This revision is due to a scheduling conflict with a joint U.S.-Canadian conference concerning the 1982 Mobile WARC. The date is advanced to allow members of S.C. 76 to attend the conference and still complete a timely response to a Notice of Inquiry by the Federal Communications Commission.

This change is approved by the FCC Advisory Committee Management Officer. For more information, contact the RTCM Secretariat: phone (202) 632-6490.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 80-34418 Filed 11-4-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-633-DR]

California; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of California (FEMA-633-DR), dated

October 2, 1980, and related determinations.

DATED: October 23, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: The Notice of a major disaster for the State of California, dated October 2, 1980, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 2, 1980.

Upper Jones Tract in the San Joaquin Delta of San Joaquin County for Public Assistance to local governments.

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance. Billing Code 6718-02.)

[FR Doc. 80-34429 Filed 11-4-80; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1316]

Movers Port Service, Inc.; Order of Revocation

Pursuant to a September 9, 1980 Settlement Agreement between Four Winds Forwarding, Inc., Four Winds International, Inc., Movers Port Service, Inc., Four Winds Enterprises, Inc., and the Federal Maritime Commission, Movers Port Service, Inc. agreed *inter alia* that it would voluntarily surrender its independent ocean freight forwarder license No. 1316, and that it would not for a period of one year after surrender make application for a new or reinstated license.

Movers Port Service, Inc. has surrendered a photocopy of its license for voluntary revocation, effective December 1, 1980.

Therefore, pursuant to the Settlement Agreement, and by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1316 issued to Movers Port Service, Inc., be

and is hereby revoked effective December 1, 1980.

It is further ordered, That the original license certificate, when found, be returned to the Federal Maritime Commission.

It is further ordered, That a copy of this Order be published in the Federal Register and served upon Movers Port Service, Inc.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-34497 Filed 11-4-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than November 26, 1980.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President) 30 Pearl Street, Boston, Massachusetts 02106:

Industrial National Corporation, Providence, Rhode Island (finance and insurance activities; Tennessee): to engage through its indirect subsidiary, Southern Discount Company of Tennessee, in the activities of making extensions of credit such as would be made by a consumer finance company, and acting as agent for the sale of credit life and credit accident and health insurance directly related to its extensions of credit, which insurance would be reinsured by an affiliate, Consumer Life Insurance Company. These activities would be conducted from an office in Jasper, Tennessee, serving all of Marion County, Tennessee.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Francisco, California (financing, servicing, and insurance activities; Iowa): to continue to engage, through its indirect subsidiary FinanceAmerica Corporation, a Delaware corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and the offering of credit related life and credit related accident and health and credit related property insurance. Such activities would include, but not be limited to, making loans and other extensions of credit to consumers as well as small businesses, purchasing installment sales finance contracts, making loans secured by real and personal property, and offering life, accident and health, and property insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation, a Delaware corporation.

These activities would be conducted from an existing office in Rock Falls, Illinois, serving the state of Iowa.

C. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, October 29, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34430 Filed 11-4-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[Docket No. N-80-1024]

Request for Public Comment on Single Family Real Estate Settlement Practices

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Extension of Public Comment Period.

SUMMARY: On Thursday, October 2, 1980, the Department published a request for public comment on single family real estate settlement practices. (45 FR 65320) In order to afford the public more time to comment on this subject, the deadline for submitting written comments is being extended until November 17, 1980.

COMMENT DUE DATE: November 17, 1980 is the deadline for receipt of comments.

ADDRESS: Interested persons are invited to submit written comments or data regarding the subject area to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Communications should refer to the above docket number and title. All relevant material received on or before November 17, 1980 will be considered in preparation of the Department's report to Congress. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Richard Patterson, Real Estate Practices Division, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Room 3234, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6524. (This is not a toll free number.)

(Real Estate Settlement Procedures Act of 1974, Pub. L. 93-533, 12 U.S.C. 2601 et. seq.; Real Estate Settlement Procedures Act Amendment of 1975, Pub. L. 94-205).

Issued at Washington, D.C., October 31, 1980.

William O. Anderson,

Acting Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 80-34560 Filed 11-4-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

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 ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0438, Block 175 Eugene Island 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 (504) 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 § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 28, 1980.

E. A. Marsh,

Staff Asst. for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-34412 Filed 11-4-80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

Carson City District Multiple Use Advisory Council; Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming

meeting of the Carson City District Multiple Use Advisory Council.

DATE: December 10, 1980—10:00 a.m.

ADDRESS: Palomino Valley Corrals, 17800 Pyramid Lake Highway, approximately 18 miles north of Sparks, Nevada.

FOR FURTHER INFORMATION CONTACT: Steve Weiss, Public Affairs Officer, Carson City District, Bureau of Land Management, 1050 East William Street, Suite 335, Carson City, Nevada 89701, (702) 882-1631.

SUPPLEMENTARY INFORMATION: The Council is chartered to provide citizen counsel and advice to the Carson City District Manager regarding planning and management of the public lands and resources within the District. The agenda for this meeting will include consideration of land sales and the wild horse and burro management program and a tour of the Palomino Valley Corrals and Adoption Center.

The meeting is open to the public. Any person may attend, file a written statement by mail, or appear before the Board at 3:00 p.m. (Persons wishing to attend are advised to call in advance for directions to the location of the meeting.)

Thomas J. Owen,
District Manager.

October 27, 1980.

[FR Doc. 80-34413 Filed 11-04-80; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Designation of the Little Book Cliffs Wild Horse Range

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of area.

SUMMARY: This action designates approximately 28,000 acres of public land in Mesa County Colorado, as the Little Book Cliffs Wild Horse Range.

DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Andy Senti, Colorado State Office, 303-837-3393, or Sam McReynolds, Grand Junction District Office 303-243-6552.

1. Pursuant to Section 3 of the Pub. L. 92-195 of December 15, 1971, I hereby designate the lands in the following described areas as the Little Book Cliffs Wild Horse Range.

Sixth Principal Meridian

T. 9 S., R. 99 W.,

- Sec. 18, that portion lying below the north rim of Main Canyon and west of the Little Book Cliffs Horse Area fence;
- Sec. 19, that portion lying below the east rim of Lane Gulch;
- Sec. 28, that portion lying west of the Little Book Cliffs Horse Area fence;

Sec. 29, that portion lying below the north rim of the north fork of Cosgrove Canyon;

Sec. 30, that portion lying below the north rim of the north fork of Cosgrove Canyon, the east rim of Lane Gulch, and west of the Little Book Cliffs Horse Area fence;

Sec. 31, all;

Sec. 32, that portion lying above the west rim of Cosgrove Canyon and the Little Book Cliffs Horse Area fence;

Sec. 33, that portion lying west of the Little Book Cliffs Horse Area fence.

T. 9 S., R. 100 W.,

Sec. 13, that portion lying below north rim of Main Canyon;

Sec. 14, that portion of public lands lying below the north rim of Main Canyon;

Sec. 15, that portion lying below the north rim of Main Canyon, south of the Little Book Cliffs Horse Area fence and above the Little Book Cliffs rim;

Sec. 21, that portion lying above the Little Book Cliffs rim;

Sec. 22, that portion lying above the Little Book Cliffs rim;

Sec. 23, that portion of public lands lying above the Little Book Cliffs rim;

Secs. 24 and 25, all;

Sec. 26, that portion lying above the Little Book Cliffs rim;

Sec. 35, that portion lying above the Little Book Cliffs rim;

Sec. 36, that portion lying above the Little Book Cliffs rim;

T. 10 S., R. 98 W.,

Sec. 7, that portion lying below the north rim of Main Canyon;

Sec. 18, that portion lying below the north rim of Main Canyon;

Sec. 19, all;

Sec. 20, that portion lying below the north rim of Main Canyon;

Sec. 21, $W\frac{1}{2}SW\frac{1}{4}$;

Sec. 28, $W\frac{1}{2}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$;

Sec. 29, $N\frac{1}{2}$, $SW\frac{1}{4}$, $SE\frac{1}{4}$, that portion lying below the south rim of Coal Canyon;

Secs. 30 and 31, all;

Sec. 32, that portion lying below the south rim of Coal Canyon.

T. 10 S., R. 99 W.,

Sec. 1, that portion lying below the north rims of Main and Cottonwood Canyons and south of the Little Book Cliffs Horse Area fence;

Sec. 2, that portion lying below the north rim of Cottonwood Canyon;

Sec. 3, that portion lying below the north rim of Cottonwood Canyon;

Sec. 4, that portion lying below the north rim of Cottonwood Canyon and south of the Little Book Cliffs Horse Area fence;

Sec. 5, all;

Sec. 6, that portion lying above the Little Book Cliffs rim;

Sec. 7, that portion of public land lying above the Little Book Cliffs rim;

Sec. 8, that portion of public land lying above the Little Book Cliffs rim;

Secs. 9, 10, 11, all;

Sec. 12, that portion lying below the north rim of Main Canyon;

Secs. 13, 14, 15, 16, all;

Sec. 17, that portion lying above the Little Book Cliffs rim;

Secs. 22, 23, 24, 25, 26, 27, all;

Sec. 34, that portion lying above the Little Book Cliffs rim;

Secs. 35 and 36, all.

T. 10 S., R. 100 W.,

Sec. 1, that portion lying above the Little Book Cliffs rim.

T. 11 S., R. 98 W.,

Sec. 4, that portion lying west of the Little Book Cliffs Horse Area fence;

Sec. 5, that portion of public land lying west of the Little Book Cliffs Horse Area fence and above the Little Book Cliffs rim;

Sec. 6, that portion of public land lying above the Little Book Cliffs rim.

T. 11 S., R. 99 W.,

Sec. 1, that portion lying above the Little Book Cliffs rim.

Ute Principal Meridian

T. 1 N., R. 1 E.,

Secs. 1 and 2, all;

Sec. 3, that portion lying above the Little Book Cliffs rim;

Sec. 10, that portion lying above the Little Book Cliffs rim;

Secs. 11, 12, 13, all;

Sec. 14, that portion lying above the Little Book Cliffs rim;

Sec. 24, that portion lying above the Little Book Cliffs rim.

The area described above aggregates approximately 27,065 acres of public land in Mesa County, Colorado.

Sixth Principal Meridian

T. 9 S., R. 100 W.,

Sec. 14, $N\frac{1}{2}SE\frac{1}{4}$, $SE\frac{1}{4}SE\frac{1}{4}$;

Sec. 23, $NE\frac{1}{4}NE\frac{1}{4}$;

Sec. 36, $E\frac{1}{2}NE\frac{1}{4}$.

T. 9 S., R. 99 W.,

Sec. 31, $N\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$.

T. 10 S., R. 99 W.,

Sec. 8, $W\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}$.

T. 11 S., R. 99 W.,

Sec. 6, $NE\frac{1}{4}SE\frac{1}{4}$.

T. 11 S., R. 98 W.,

Sec. 5, $NW\frac{1}{4}SW\frac{1}{4}$.

The area described above aggregates 707 acres of private land which may be made a part of the designated horse range should the lands be acquired by the Federal Government. The total public and private lands aggregates 27,772 acres.

2. Subject to valid existing rights, the range will be primarily administered for the protection and management of wild horses, coordinating this use with wildlife, recreation, forestry, minerals, watershed, and fire management programs of the Bureau of Land Management.

3. Administration of the range will be in accordance with the regulations found in 43 CFR Part 4700.

4. For the purposes of management of the wild horses, the boundaries thereof consist of natural barriers and fencing delineating the area described in paragraph 1. The lands are more

particularly identified on plats and maps filed in the Bureau of Land Management Colorado State Office and the Grand Junction District Office.

Frank Gregg,

Director.

October 31, 1980.

[FR Doc. 80-34478 Filed 11-4-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Application

Important Notice: 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, 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 Property

Notice No. F-69

The following applications were filed in Region 2. Send protests to: ICC, FEDERAL RESERVE BANK BLDG., 101 N. 7th St., ROOM 620, PHILADLPHIA, PA 19106.

Republication

MC 151706 (Sub-II-2TA), filed September 24, 1980. Originally published in the **Federal Register** October 16, 1980. Applicant: JAN-AL SALES, INC., 5321 Southwyck Blvd., Toledo, OH 43614. Representative: Joseph E. Ludden 324 Exchange Bldg., La Crosse, WI 54601. *Chemicals or allied products and materials, equipment and supplies used in the manufacture and distribution of the above commodities*, (except commodities in bulk) between points in CT, GA, IL, IN, IA, MA, MI, MN, MO, NJ, NY, OH, PA, TN, and WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Lehn & Fink Products, Div. of Sterling Drug, Inc., 255 Summit Ave., Montvale, NJ 07645. The purpose of this republication is to show the State of MO which was omitted.

MC 67646 (Sub-II-3TA), filed October 23, 1980. Applicant: HALL'S MOTOR TRANSIT COMPANY 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same address as applicant). Authority sought: *General commodities*, except those of unusual value, class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving points in Adams, Allen, Elkhart, La Porte, St. Joseph, and Wayne Counties, IN; Berrien, Cass, Lenawee, Monore, and St. Joseph Counties, MI; Hillsborough, Rockingham and Strafford Counties, NH; and Ashland, Butler, Clark, Clermont, Crawford, Delaware, Erie, Fairfield, Fayette, Franklin, Greene, Hamilton, Hancock, Huron, Knox, Licking, Lucas, Madison, Marion, Miami, Montgomery, Morrow, Muskingham, Ottawa, Pickaway, Preble, Richland, Ross, Sandusky, Seneca, Union, Warren, Wood, and Wyandot Counties, OH; as intermediate or off-route points in connection with the carrier's authorized regular-route operations, for 270 days. Applicant intends to tack and interline. Supporting shippers: There are 93 supporting shippers. Their statements may be viewed at the ICC Regional Office, Philadelphia, PA.

MC 125335 (Sub-2-20TA), filed October 23, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Such commodities as are dealt in or used by wholesale and retail grocery stores and food business houses*, from all points in the US in and east of CO, MT, NM, and WY to Allegheny and Butler Counties, PA. Supporting shipper: Giant Eagle

Markets, Inc., 101 Kappa Drive, Pittsburg, PA.

MC 150939 (Sub-II-8TA), filed October 23, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 152219. *Copper wire products and materials, equipment and supplies used in the manufacture and distribution thereof* between the facilities of Essex Group, Division of United Technologies Corp. in the US in and east of MN, IA, MO, AR and LA, on the one hand, and, on the other, points in the US, under a contract(s) with Essex Group, Division of United Technologies Corp. of Fort Wayne, IN. Supporting shipper: Essex Group, Division of United Technologies Corp., P.O. Box 1216, Fort Wayne, IN 46801.

MC 140889 (Sub-II-3TA), filed October 14, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Biedler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114. Contract, irregular—*plastic films, sheeting, bags and rigid plastic articles, machinery, equipment and supplies used in the manufacture and distribution of the above* from the facilities of Mobil Chemical Co. located at Pottawatomie County, OK; Bell County, TX; Cook and Sangamon Counties, IL; Ontario and Wayne Counties, NY; Kern and Yolo Counties, CA; Newton County, GA; Middlesex County, ME; Fairfield County, CT and Warren County, NJ to points in the U.S. (except AK and HI), for 270 days. Supporting shipper(s): Mobile Chemical Co., Plastics Division, Macedon, NY 14502.

MC 147681 (Sub-II-13TA), filed October 21, 1980. Applicant: HOYA EXPRESS, INC., Rt. 18, West Middlesex, PA 16159. Representative: Michael P. Pitterich, P.O. Box 543, West Middlesex, PA 16159. *Chocolate candy*, from West Reading and Wyomissing, PA to points in PA, OH, WV, KY, IN, IL and MI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): R. M. Palmer Co., 77 Second Ave., West Reading, PA 19611.

MC 143394 (Sub-II-16TA), filed October 22, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same address as applicant). Contract: Irregular: *General Commodities (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, between points in the U.S. under

continuing contract(s) with West Coast Shippers Association, Philadelphia, PA 19142, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): West Coast Shippers Association, 2000 S. 71st Street, Philadelphia, PA 19142.

MC 138000 (Sub-II-22TA), filed October 20, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22855. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. *Health and beauty aids* between all points in the United States in and east of WI, IL, MO, AR and LA. Restricted to the transportation of shipments originating at or destined to the facilities of or utilized by Megas Manufacturing, Inc., for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Megas Manufacturing Inc., 4800 Van Epps Road, Cleveland, OH 44131.

MC 78118 (Sub-II-2TA), filed October 20, 1980. Applicant: W. H. JOHNS, INC., 35 Witmer Rd., Lancaster, PA 17602. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Such commodities as are manufactured, dealt in or used by a manufacturer or distributor of glass containers* (except commodities in bulk), between points in the U.S. east of the western boundaries of WI, IL, KY, TN and MS, limited to transportation to or from the facilities of Glass Containers Corporation for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Glass Containers Corporation, Knox, PA 16232.

MC 144780 (Sub-II-1TA), filed October 20, 1980. Applicant: PAUL EVANS & SONS TRUCKING, INC., P.O. Box 185, Wilmington, OH 45177. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Contract: Irregular: General Commodities, (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses, as described in the Report Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives) between points in the U.S. except AK, and HI. Restricted to traffic originating at or destined to the facilities used by International Paper Co. Supporting shipper: International Paper Company, 220 E. 42nd Street, New York, New York 10017.*

MC 150432 (Sub-II-7TA), filed October 20, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, DC 20036.

Contract: Irregular: Frozen Foods, between Columbus and Bedford Heights, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contracts with Quality Bakery, Inc., and New York Frozen Foods, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Quality Bakery Company, Inc., 50 North Glenwood, Columbus, OH 43222. New York Frozen Foods, Inc., 25900 Fargo Ave., Bedford Heights, OH 44164.

MC 148459 (Sub-II-1TA), filed October 24, 1980. Applicant: ACME VAN SERVICE, INC., 1340 Chesapeake Ave., Baltimore, MD 21226. Representative: William D. Dailey (same address as applicant). *Used household goods restricted to transportation of traffic having prior or subsequent movement, in container beyond the points authorized and further restricted to the performance of pick up and delivery service in connection with packing, crating and containerization or unpacking, inventory and decontainerization of such traffic, between Baltimore City, Anne Arundel County, Howard County, Prince Georges County, Baltimore County, Carroll County, Montgomery County, Harford County, Cecil County, Kent County, all within the State of MD, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: DIO Contracting Div., Ft. Meade, MD 20755.*

MC 139464 (Sub-II-2TA), filed October 24, 1980. Applicant: BASS TRANSPORT, INC., Rt. 2, Box 64A, Altavista, VA 24517. Representative: Frank B. Hand, Jr., 521 S. Cameron St., Winchester, VA 22601. *New Furniture and Fixtures, from Altavista and Rocky Mount, VA to points in IL, WI, ME, MA and RI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Lane Co., Inc., East Franklin St., Atavista, VA 24517.*

MC 110525 (Sub-II-18TA), filed October 23, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). *Chemicals, in bulk, in tank vehicles from Memphis, TN to points in AL, AR, MS, KY, MO, and IL for 270 days. Supporting shipper: Dow Chemical USA, Suite 2005, 20 Perimeter Center E, Atlanta, GA 30346.*

MC 110659 (Sub-II-4TA), filed October 24, 1980. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia St. W., Charleston, WV 25302. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Transmissions, transmission parts, engines, engine*

parts and materials and supplies used in the rebuilding and wholesale-retail distribution thereof, between points in MI, on the one hand, and, on the other, points in Guernsey City, OH and Kanawha City, WV for 270 days. Underlying ETA for 120 days. Supporting shipper: Ray C. Call, Inc., P.O. Box 8245, S. Charleston, WV 25303.

MC 112304 (Sub-II-21TA), filed October 27, 1980. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John G. Banner (same address as applicant). *Agricultural fertilizer spikes, and raw materials used in the manufacture thereof, from Lexington, KY, on the one hand, and, on the other, all pts. in the US (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): International Spike Co., 817 East Third St., Lexington, KY 40503.*

MC 115694 (Sub-II-2TA), filed October 27, 1980. Applicant: J. BALLEW & SONS, INC., Box 47, Stuarts Draft, VA 24477. Representative: James E. Ballew, (same as applicant). *Contract, irregular: paints, materials, supplies and equipment, used in the manufacture thereof between pts. in the US, under continuing contracts with Evans Paint Division, Roanoke, VA. Supporting shipper: Evans Paint Division, P.O. Box 4098, Roanoke, VA 24015.*

MC 72069 (Sub-II-9TA), filed October 27, 1980. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *(1) Such commodities as are dealt in by grocery and food business houses and (2) Materials, supplies, and equipment used in connection with or incidental to the manufacturing of such commodities, from points in Rockingham, Shenandoah and Frederick Counties, VA and Berkeley County, WV to all points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shipper(s): Bowman Apple Products Company, Inc., Mount Jackson, VA 22842; Shenandoah Apple Co-Operative, Inc., Winchester, VA.*

MC 149230 (Sub-II-2TA), filed October 27, 1980. Applicant: BRAMCO TRANSPORT, INCORPORATED, 5600 Lewis Rd., Sandston, VA 23150. Representative: P. Owen Dean (same as applicant). *Contract, irregular: Bakery goods, supplies, equipment, materials and merchandise used in the manufacture, sales and distribution of bakery products, between Richmond, VA, Battletcreek, MI, Tacoma and Sioux City, SD; and pts. and places within the*

US (except AL and HI) for the account of Interbake Foods., Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Interbake Foods, Inc., P.O. Box 27487, Richmond, VA 23261.

MC 142559 (Sub-II-20TA), filed October 27, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 E Broad St., Columbus, OH 43215. *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) moving on bills of lading of shippers' associations as defined in 49 U.S.C. 10526(5)(a) between Dallas and Ft. Worth, TX, on the one hand, and, on the other, pts in the US (except AK and HI) for 270 days. Supporting shipper: New England Shipping Association Cooperative, 1029 Pearl St., Brockton, MA 02403.*

MC 143267 (Sub-II-3TA), filed October 27, 1980. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th St., NW., Wash., DC 20005. (1) *Agricultural equipment and implements and (2) materials used in the manufacture thereof, between the facilities of International Harvester Co. at Canton and E. Moline, IL, on the one hand, and on the other, pts. in the US in and east of WI, IL, KY, TN, and MS, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: International Harvester Co., 401 N. Michigan Ave., Chicago, IL 60611.*

MC 152020 (Sub-II-1TA), filed October 27, 1980. Applicant: ALBERT G. DRIEBE, R.D. No. 1, Box 1229, Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. (1) *Masonry Cement; (2) Machinery to be used for display or show purposes; (3) Such commodities as are usually dealt in by retail and wholesale grocery, hotel & restaurant establishments; (1) from Stroud Township, PA to points in the U.S. (except AK & HI); (2) between East Stroudsburg, PA on the one hand, and, on the other, points in the US (except AK & HI); (3) between Monroe County, PA on the one hand, and, on the other, points in the US (except AK & HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Pocono Fabricators, Div. of Patterson-Kelley Co., E. Stroudsburg, PA 18301; Pocono Produce Co., Inc., 777 N. 5th St., Stroudsburg, PA 18360.*

MC 107012 (Sub-II-99TA), filed October 24, 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). *Kitchen cabinets, sink tops, molding, filler strips, and parts and accessories* from the facilities of Boro Wood Products Co., Inc., at or near Bennettsville, SC to points in CT, DE, MA, MD, NH, NJ, NY, PA, RI, and VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Boro Wood Products Co., Inc., Box 636, Maple St., Bennettsville, SC 29512.

Note.—Common control may be involved.

MC 152316 (Sub-II-1TA), filed October 23, 1980. Applicant: NORTHEASTERN HAULERS, INC., P.O. Box 5225, Wilmington, DE 19808. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *General commodities, except Classes A & B explosives, commodities in bulk and household goods as defined by the Commission* between points in NJ, PA and MD, on the one hand, and, on the other, the du Pont plant in Newport, DE for 270 days. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898.

MC 152125 (Sub-II-2TA), filed October 23, 1980. Applicant: MIDWEST CONTAINER SERVICES, INC., 5717 Hamlet Ave., Cleveland, OH 44115. Representative: Douglas R. Denny, 1050 Union Commerce Bldg., Cleveland, OH 44115. *General commodities in containers and empty intermodal equipment (except household goods as defined by the Commission, hazardous materials, and commodities in bulk) between points in MI, OH, and KY on the one hand and on the other, points in MD, NJ, NY, PA, and VA for 270 days. Restricted to the transportation of cargo having prior or subsequent movement by water.* Supporting shipper(s): There are five (5) supporting shippers. Their statement may be examined at the ICC office in Philadelphia, PA.

MC 119821 (Sub-II-5TA), filed October 27, 1980. Applicant: OCHROCH TRANSPORTATION CO., INC., 2nd St. and Erie Ave., Philadelphia, PA 19140. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Lighting fixtures*, between the facilities of Progress Lighting, Philadelphia, PA and Baltimore, Forrestville and Hagerstown, MD; Boston and Lawrence, MA; New York, NY; Columbus, OH; Providence, RI; Cowpens, SC; Washington, DC and the International Boundary Line between the U.S. and Canada in NY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Progress

Lighting, G St. and Erie Ave., Philadelphia, PA 19134.

MC 107012 (Sub-II-100TA), filed October 27, 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 address as applicant). *Loud speakers, and parts and accessories for the manufacture, maintenance and distribution of loud speakers* from Los Angeles, CA to points in GA and FL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ultralinear, Division of Solar Audio Products, Inc., 3228 East 50th St., Los Angeles, CA 90058.

Note.—Common control may be involved.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 115654 (Sub-3-29TA), filed October 21, 1980. Applicant: TENNESSEE CARTAGE CO, INC., P.O. Box 23193, Nashville, Tennessee 37202. Representative: Jackie Hastings (same address as applicant). *Foodstuffs and chemicals, except in bulk*, from the facilities of Morco Food Distributors at Atlanta, GA and it's commercial zone to Nashville, TN and it's commercial zone. Supporting Shipper: Morco Food Distributors, P.O. Box 10627, 4240 Industrial Dr., Jackson, MS 39209.

MC 124117 (Sub-3-3TA), filed October 22, 1980. Applicant: EARL FREEMAN and MARIE FREEMAN, d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. *Containers*, from the facilities of Northwest Bottle Company at or near St. Louis, MO to points in Moore County, TN. Supporting Shipper: Northwestern Bottle Company, 2222 N. Second Street, St. Louis, MO 63147.

MC 139006 (Sub-3-2TA), filed October 23, 1980. Applicant: RAPIER SMITH, R.R. 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Alcoholic beverages*, from points in KY, MI, IL, NY, and MO to Indianapolis, IN and its commercial zone. Applicant has filed underlying ETA seeking 120 days of operating authority. Supporting shipper: National Liquor Corp., 1102 East 16th Street, Indianapolis, IN 46202.

MC 149575 (Sub-3-1TA), filed October 23, 1980. Applicant: ADAMS CARTAGE COMPANY, INC., 4440 Mead Road, P.O. Box 3043, Macon, GA 30345. Representatives: Archie B. Culbreth,

John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Polyvinyl chloride pipe, fittings and accessories* from the facilities of KYKA U.S.A., INC. in Bibb County, GA to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, NC, OH, SC, TN, TX and VA; and (2) *Materials, equipment and supplies used in the manufacture and distribution of polyvinyl chloride pipe, fittings and accessories* from points in AL, AR, FL, GA, IL, IN, KY, LA, MS, NC, OH, SC, TN, TX and VA to the facilities of KYKA U.S.A., INC. in Bibb County, GA. Supporting shipper: Kyka U.S.A., Inc., 7614 Industrial Highway, P.O. Box 10246, Macon, GA 31297.

MC 124887 (Sub-3-12TA), filed October 22, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421.

Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Asphalt and Roofing*, between Tuscaloosa County, AL, on the one hand, and, on the other, points in AR, FL, GA, KY, LA, MS, NC, SC, TN, TX and VA. Supporting shipper: Warrior Roofing Manufacturing Company, P.O. Box 3161, Tuscaloosa, AL 35404.

MC 141652 (Sub-3-4TA), filed October 23, 1980. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 29308. Representative: Mark S. Gray, P.O. Box 872, Atlanta, GA 30301. *Automotive parts and accessories* between the facilities of Bendix Automotive Aftermarket Division of the Fram Corporation located at or near Jackson, TN and Santa Fe Springs, CA. Supporting shipper: Bendix Automotive Aftermarket Division of the Fram Corporation, 1094 Bendix Dr., Jackson, TN 38301.

MC 151395 (Sub-3-4TA), filed October 21, 1980. Applicant: SNEAKER FREIGHT LINE, INC., 4215 Thurman Rd., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Containers, container ends and closures and tin plate, and materials, equipment and supplies used in the manufacture or distribution of containers, container ends and closures*, between points in the U.S., restricted to traffic originating at or destined to a facility of Crown Cork and Seal Company, Inc. Supporting shipper: Crown Cork and Seal Company, Inc., 9300 Ashton Road, Philadelphia, PA 19136.

MC 75192 (Sub-3-2TA), filed October 21, 1980. Applicant: CHARLES T. BROWN TRUCK LINES, INC., 1208 Buff Street, Greensboro, NC 27406. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Iron and Steel Articles and Aluminum Articles*,

between points in NC, SC, and VA, on the one hand, and, on the other points in DE and MD. Supporting shippers: Carolina Steel Corporation, P.O. Box 20888, Greensboro, NC 27420, Greensboro Pipe Co., Inc., 3102 Randleman Road, Greensboro, NC, Contract Steel Sales, Inc., P.O. Box 3305, Greensboro, NC 27402, Debnam-Hughes Corp., P.O. Box 9677, Greensboro, NC 27408.

MC 143691 (Sub-3-3TA), filed October 23, 1980. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). *Contract carrier, irregular routes; Such commercial papers, documents and written instruments (except currency and negotiable securities) as are used in the business of banks and banking institutions* between Highland, NC and Commerce, GA. Supporting shipper: Carolina Mountain Bank, Highland, NC 28741.

MC 116254 (Sub-3-20TA), filed October 23, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Iron oxide, in tank vehicles*, from Gadsden, AL to Washington, IN. Supporting shipper: Republic Steel Corporation, P.O. Box 6778, Cleveland, OH 44101.

MC 142181 (Sub-3-3TA), filed October 23, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Avenue, Nashville, Tennessee 37202. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, Tennessee 37219. *Contract carrier, irregular routes: Merchandise, equipment, and supplies sold, used or distributed by a manufacturer of cosmetics* between points in the U.S. under a continuing contract with Avon Products, Inc. of Atlanta, GA. Supporting shipper: Avon Products, Inc., 2200 Cotillion Drive, Atlanta, GA 30302.

MC 144827 (Sub-3-17TA), filed October 23, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Clothing* from Chattanooga, TN to points in CA. Supporting shipper: The Van Heusen Company, P.O. Box 307, Schuylkill Haven, PA 19792.

MC 151551 (Sub-3-2TA), filed October 22, 1980. Applicant: GARDNER TRUCKING COMPANY, INC., 820 Avenue E, Pratt City, AL 35214. Representative: Alvin D. Gardner (same address as applicant). *Primary metal products, fabricated metal products, and machinery* between the facilities of

Passavant Corp., R & T Steel, Midway Equipment Co. and Natchez Steel & Pipe, Inc. in Jefferson County, AL and points in AL, GA, FL, SC, NC, KY, TN, AR, MS, LA and TX. Supporting shippers: Passavant Corp., 125 Carson Road, Birmingham, AL 35201; R & T Steel, 3148 Cobblestone Drive, Birmingham, AL 35215; Midway Equipment Co., 1315 15th Avenue North, Bessemer, AL 35020; Natchez Steel & Pipe, Inc., 1355 Industrial Blvd., Bessemer, AL 35201.

MC 139006 (Sub-3-3TA), filed October 23, 1980. Applicant: RAPIER SMITH, Rural Route 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *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 all points in the U.S. (except AL and HI), restricted to traffic originating at or destined to facilities used by Essex Group, Inc. and its subsidiaries. Supporting shipper: Essex Group, Inc., P.O. Box 1216, Fort Wayne, IN 46801.

MC 148903 (Sub-3-1TA), filed October 20, 1980. Applicant: J & M TANK LINES, INC., P.O. Box 544, Americus, Ga 31709. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30301. *Fly ash in bags* from Atlanta, GA to points in the states of AL, FL, MS, LA, TX, AR, TN, KY, NC, SC and VA. Supporting shippers: Peavy Inc. d.b.a. Peavy Materials, 1130 Chattahoochee Avenue, Atlanta, GA 30318; Williams Bros. Lumber Company, P.O. Box 17566, East Atlanta Station, Atlanta, GA 30316.

MC 113528 (Sub-3-1TA), filed September 18, 1980. Republication—Originally Published in *Federal Register* of October 6, 1980, page _____, volume 45, No. 195. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, AL 36633. Representative: Joy Stephenson (same address as applicant). *Common carrier, regular routes: General commodities (with the usual exceptions)*, serving all points in Oconee County, GA as off route points in connection with carrier's otherwise authorized regular route operation. Supporting shipper: Anaconda-Ericsson, Inc., 1121—108th St., Arlington, TX 76011. Carrier intends to tack in MC 113528 and Subs.

MC 98478 (Sub-3-2TA), filed October 20, 1980. Applicant: ROBBINS TRUCK LINE, INC. Route #1, Hardinsburg, KY 40143. Representative: Rudy Yessin, 113 W. Main Street, Frankfort, KY 40601. *Common carrier, 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): From Union County, KY to Hamilton County, OH, serving all points and places in the counties of Union, Webster, Henderson, McLean, Daviess, Hancock, Breckinridge, Meade, Hardin, Bullitt, Jefferson, Oldham, Trimble, Henry, Carroll, Gallatin, Boone, Kenton, and Campbell Counties, KY and Hamilton County, OH as off-routes points: Over KY Hwy 56 in Union County, KY to U.S. Hwy 60; then over U.S. Hwy 60 to 31W; then over 31W to I-65 at Elizabethtown, KY; then over I-71 to I-75 to Cincinnati, OH, and return over the same route. Applicant will tack and will interline at Louisville, KY and Cincinnati, OH. There are 10 statements of support attached to this application which may be examined at the ICC Regional office in Atlanta, GA.

MC 152267 (Sub-3-1TA), filed October 14, 1980. Applicant: JET-REST TRANSPORTATION COMPANY, INC., SC Hwy. 145, Greer, SC 29651. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract: Irregular: (1) Furniture, material and supplies used in the manufacture and distribution of furniture, between Greenville County, SC on the one hand, and, on the other, all pts. in the US (except AK and HI); and, (2) New containers and drums, from Lockport, IL; Camden, NJ; Atlanta, GA and Bladenboro, NC to Florence, SC. Supporting shippers: Outlaw Industries, Inc., SC Hwy. 14 S. Greer, SC 29651; Rapco Foam, Inc., 3231 Bryson Dr., Florence, SC 29501; Brooks Transfer and Storage, 1309 Laurens Rd., Greenville, SC 29607.*

MC 121664 (Sub-3-26TA), filed October 16, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 1st. Ave. S., Birmingham, AL 25233. *Wooden poles. Between all points in and east of ND, SD, NE, KS, OK, and TX. Restriction: Restricted to the transportation of shipments originating at or destined to facilities owned, operated, utilized by Escambia Treating Company. Supporting shipper: Escambia Treating Company, P.O. Box 17108 Pensacola, FL 32522.*

MC 148822 (Sub-3-5TA), filed October 20, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Avenue, Fairfield, AL 35024. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Contract, irregular: Forest products, lumber or*

wood products, gypsum board, pressed board and other wall-boards, between points in the US in and east of KS, NE, ND, OK, SD, and TX. Supporting shipper: Russell Stadlerman & Co., P.O. Box 17039, Memphis, TN 38117.

MC 146467 (Sub-3-1TA), filed October 17, 1980. Applicant: TRIO MOTOR LINES, INC., Route 8, Box 374, Burlington, NC 27215. Representative: Jeffrey A. Vogelmann, Suite 400, Overlook Bldg., 6121 Lincolina Road, Alexandria, VA 22312. *Passengers and their baggage, in the same vehicle with passengers, in charter service, beginning and ending at points in Alamance County, NC, and extending to points in AL, FL, GA, IN, KY, LA, MD, MS, NY, OH, PA, SC, TN, VA, WV, and DC. Supporting shipper: There are 15 appendix of support attached which may be reviewed at the Atlanta Regional Office.*

MC 152253 (Sub-3-1TA), filed October 20, 1980. Applicant: CHEROKEE HAULING & RIGGING, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. *Contract; irregular; general commodities (except in bulk and Classes A and B Explosives), between points in the United States (except AK and HI), under contract with Robintech, Incorporated. Supporting shipper: Robintech, Incorporated, P.O. Box 2342, Ft. Worth, TX 76113.*

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 148623 (Sub-4-1), filed October 27, 1980. Applicant: RON BUNGER TRUCKING AND FERTILIZER, LTD., Box 156, Davis Junction, IL 61020. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Railway car Parts and Components between points in the U.S. on traffic originating and destined for Miner Enterprises, Inc. An underlying ETA seek 120 days authority. Supporting shipper: Miner Enterprises, Inc., 1200 E. State Street, Geneva, IL 60134.*

MC 145337 (Sub-4-2TA), filed October 24, 1980. Applicant: P.M.E., LTD., 1557 Brookside Boulevard, Winnipeg, Manitoba Canada R2R 1V6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Citrus by-products, from points in FL to the ports of entry on the International Boundary Line between the U.S. and Canada located in MI, MN, MT, NY, ND, and WA. An underlying ETA seeks 120 days authority. Supporting shipper: Citrus*

Central, P.O. Box 17774, Orlando, FL 32860.

MC 106603 (Sub-4-3TA), filed October 24, 1980. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, S.W., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Gypsum wallboard from Fort Dodge, IA to points in WI and IL; and from Port Clinton, OH to points in MI, KY, and PA. Supporting shipper: Grand Rapids Gypsum Co., P.O. Box 2475, Grand Rapids, MI 49501.*

MC 133189 (Sub-4-7TA), filed October 24, 1980. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. *Iron and steel articles, from points in the Milwaukee commercial zone and Kenosha, Racine and Beloit, WI; and points in the Chicago commercial zone and Barrington and Crystal Lake, IL to Cedar Rapids, IA. Supporting shipper: FMC Corp., Cedar Rapids, IA.*

MC 151899 (Sub-4-2TA), filed October 24, 1980. Applicant: BLACKHAWK EXPRESS, INC., 89 North Main, Ft. Atkinson, WI 53538. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. *Contract, irregular: Such commodities as are used or dealt in by manufacturers and distributors of felt from Millbury, MA; Jackson, MI; and Manchester, NH to points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: The Felters Company, 22 West St., Millbury, MA.*

MC 2962 (Sub-4-2TA), filed October 21, 1980. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana Street, Evansville, IN 47711. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. *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 Forrest City, AR and its commercial zone as off-route points in connection with carrier's authorized regular routes. Tacking and interlining is requested. Supporting shippers: Windsor Plastics, Inc., 601 North Congress Avenue, Evansville, IN 47715 and Jasper American Mfg. Co., P.O. Box 378, 305-315 Priest Street, Henderson, KY 42420.*

MC 135152 (Sub-4-16TA), filed October 24, 1980. Applicant: CASKET DISTRIBUTORS, INC., Rural Route 3, West Harrison, IN 45030. Representative: James D. Campbell, P.O. Box 327, Harrison, OH 45030.

Commodities dealt with by grocery chain and non-food department stores, from St. Louis, MO to all points east of the Mississippi River. Supporting shipper: Purex Corporation, 6401 McKissock Avenue, St. Louis, MO 63147.

MC 19311 (Sub-4-6TA), filed October 27, 1980. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077.

Representative: Elmer J. Maue, Suite 1200, 755 West Big Beaver, Troy, MI 48084. *Carbon Black*, between Port Huron, MI and Cadillac, MI. A corresponding E.T.A. seeks 120 days authority. Common control may be involved. Supporting shipper: Cabot Carbon of Canada, Ltd. Sarnia, Ontario.

MC 133689 (Sub-4-39TA), filed October 24, 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. *Canned goods, and materials, supplies and equipment used in the manufacture of canned goods*, between Pickett, WI, on the one hand, and on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Nass Foods, Inc., Box 1029, Portland, IN 47371.

MC 146403 (Sub-R4-1TA), filed October 24, 1980. Applicant: ROGER LOVE, d.b.a., ROGER LOVE TRUCKING, Route 3, East Grand Forks, MN 56721. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave, Minneapolis, MN 55401. *Non-exempt animal and poultry feed and animal and poultry feed ingredients*, from Fort Dodge, IA to the facilities of Peterson-Biddick Co., located at Thief River Falls, MN. An underlying ETA seeks 120 days authority. Supporting shipper: Peterson-Biddick Co., 4th and Atlantic, Thief River Falls, MN 56701.

MC 124078 (Sub-4-42TA), filed October 27, 1980. Applicant: SCHWERMANN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Ground limestone*, in bulk, in tank vehicles, from Cartersville, GA to New Castle, DE. An underlying ETA seeks 120 days authority. Supporting shipper: Thompson, Weinman & Company, P.O. Box 130, Cartersville, GA 30120.

MC 121236 (Sub-4-2TA), filed October 27, 1980. Applicant: SERVICE TRANSPORTATION LINES, INC., 729 34th Ave., Rock Island, IL 61201. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *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 Dyersville, IA, as an off-route point in connection with carrier's authorized regular-route operations. Applicant intends to tack and interline. Supporting shipper: The Ertl Company, 805 13th Ave., S.E., Dyersville, IA 52040.

MC 152338 (Sub-4-1TA), filed October 27, 1980. Applicant: DONALD L. HORNER, d.b.a. HORNER GRAIN & TRUCKING, P.O. Box 506, Hudson, SD 57034. Representative: D. Douglas Titus, Titus and Storm, Suite 510 Benson Building. *Fertilizer, Dry*, Between points in IA, MN, NE, and SD. Supporting Shippers: Sioux Fertilizer, Inc., Hawarden, IA 51023; Hunting Elevator Co., P.O. Box 8, Canton, SD 57013; Hudson Feed & Grain, Hudson, SD 57034.

MC 152353 (Sub-4-1TA), filed October 27, 1980. Applicant: WILLIAM TIMBLIN TRANSIT, INC., Route 1, Eden, WI 53019. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. (a) *steel bars, coils, plates and sheets* from points in the Chicago, IL Commercial Zone to points in Outagamie and Winnebago Counties, WI; and (b) *metal building products* from Appleton, WI to points in IL, IA, KS, MO, MN, NE, ND and SD. Restricted to shipments originating or terminating at the facilities of Appleton Supply company or Triangle Manufacturing Company. An underlying ETA seeks 120 days authority. Supporting shippers: Appleton Supply, Box 327, Appleton, WI 54912; and Triangle Manufacturing Company, 150 Libby Avenue, Oshkosh, WI 54902.

MC 152349 (Sub-4-1TA), filed October 27, 1980. Applicant: WALTER S. DRZEWIECKI, d.b.a. GAYLORD FEED & GRAIN COMPANY, 403 West Mitchell Street, Gaylord, MI 49735. Representative: William B. Elmer, 21635. East Nine Mile Road, St. Clair Shores, MI 48080. *Contract irregular: General commodities* between points in the U.S. under a continuing contract or contracts with H & H Tube and Manufacturing Co. of Southfield, MI. Supporting shipper: H & H Tube and Manufacturing Co., Suite 490, 4000 Town Center, Southfield, MI 48075.

MC 152347 (Sub-4-1TA), filed October 27, 1980. Applicant: TRANS-POWER TRUCK LINES, INC., 8685 Canterbury, Newport, MI 48166. Representative: Victor A. Rosenberger Jr., 2711 W. Central Ave., Toledo, OH 43606. *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 all points in the states of: CT, DE, GA, IL, IN, KS, KY, MD, MA, MI, MN, MO, NJ, NY, OH, PA, TN and WI. Supporting shippers: Colonial Merchantile & Mfg. Co., 3144 Bellevue Rd., Toledo, Oh 43606; Plascon Products Inc., 2829 Glendale Ave., Toledo, Oh 43614; DeVilbiss Co., Division of Champion Spark Plug, Inc., 300 Phillips Ave., Toledo, Oh 43612. Libbey-Owens-Ford Company, 811 Madison Ave., Toledo, Oh 43695.

MC 152337 (Sub-4-1TA), filed October 27, 1980. Applicant: CENTRAL STATES TRUCKING CO., 1311 South First Ave., Maywood, IL 60153. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. *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 IL, IN, IA, KY, MI, OH, and WI, and St. Louis, MO, and points in its commercial zone, on the one hand, and, on the other, Chicago, IL, and points in its commercial zone, restricted to traffic having a prior or subsequent movement by rail. Supporting shippers: ITOFCA, Inc., Two Walker Ave., Clarendon Hills, IL 60514; Pacific Northwest Perishable Shippers Association, 200 W. Thomas St., Seattle, WA 98119; Hub City Terminals, Inc., 140 Burlington Ave., Clarendon Hills, IL 60514; and Illinois Central Gulf Railroad Co., 233 North Michigan Ave., Chicago, IL 60601.

MC 29753 (Sub-4-1TA), filed October 27, 1980. Applicant: BOB AIKINS LINES, INC., P.O. Box 264, U.S. 50, Lawrenceburg, IN 47025. Representative: Paul J. Snodgrass, P.O. Box 264, U.S. 50, Lawrenceburg, IN 47025. *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 IN, OH, KY. There are five supporting shippers.

MC 118202 (Sub-4-11TA), filed October 22, 1980. Applicant: SCHULTZ TRANSIT, INC., 232 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Plastic flower pots*, from points on the U.S.-Canada Border in MN and ND to Baltimore, MD; Chicago, IL, and Minneapolis, MN. An underlying ETA seeks 120 days authority. Supporting shipper: Canadian Gardens Products, 132 James Ave. East, Winnipeg, Manitoba, Canada \$3B 0N8.

MC 118696 (Sub-4-29), filed October 27, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46324. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *New furniture and materials, equipment, and supplies* used in the manufacture and distribution thereof, between Ouachita Parish, LA, on the one hand, and, on the other, points in MO, IA, MN, WI, IL, IN, OH, and MI. An underlying ETA seeks 120 days authority. Supporting shipper: Selig Manufacturing Co., Inc., 54 Green Street, Leominster, MA 01453.

MC 138826 (Sub-4-2TA), filed October 27, 1980. Applicant: JERALD HEDRICK, d.b.a. HEDRICK & SON TRUCKING, Rural Route #1, Warren, IN 46792. Representative: Robert A. Kriscunas, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Dry fertilizer and fertilizer ingredients*, from points in OH to points in IN and MI. An underlying ETA seeks 120 days authority. Supporting shipper: Vistron Corporation, 1510 Rockefeller Building, 614 Superior Avenue, Cleveland, OH 44113.

MC 151966 (Sub-4-2TA), filed October 24, 1980. Applicant: KARAS AND SONS, INC., 707 South 6th Street, Princeton, MN 55371. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Contract Irregular: (1) Tonics and cosmetics and (2) materials, equipment and supplies used in the manufacture and distribution of (1) above*, between Dallas, TX on the one hand, and, on the other, Lawton, OK, Minneapolis, MN, Chicago, IL, Detroit, MI, Atlanta, GA, Phoenix, AZ, Los Angeles, CA and Ottumwa, IA. Supporting shipper: Sasco, 8700 Stemmons Freeway, Suite 425, Dallas, TX 75247.

MC 147259 (Sub-4-7TA), filed October 27, 1980. Applicant: CHURCHILL TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: Gerald E. Churchill (same as applicant). *Primary metal products; including galvanized; except coating or other allied processing*, between points in OH on the one hand, and, on the other hand points in the U.S. (except AK and HI). Shipper: Aluminum Smelting and Certified Alloys, Inc., 5463 Durham, Maple Heights, OH 44137.

MC 146071 (Sub-4-54TA), filed October 28, 1980. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Meats, meat products, 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 Certificate, 61 M.C.C. 209 and 766), from Liberal, KS and its commercial zone to points in AR, IA, IL, MN and WI. An underlying ETA seeks 120 days authority. Supporting shipper: National Beef Company, 1501 East 8th, Liberal, KS 67901.

MC 152350 (Sub-4-1TA), filed October 27, 1980. Applicant: GALAXY TRANSPORT, INC., P.O. Box 613, Belleville, MI. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, used motor vehicles, commodities in bulk, and those requiring special equipment) between points in Lenawee, Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties, MI, on the one hand, and, on the other, points in IL, IN, OH, and PA, and Louisville, KY, and St. Louis, MO; restricted to traffic originating at or destined to the facilities of The Ford Motor Company, One Parklane Blvd., Suite 200 East, Dearborn, MI 48126.*

MC 118202 (Sub-4-11TA), filed October 22, 1980. Applicant: SHULTZ TRANSIT, INC., 232 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Plastic flower pots*, from points on the U.S.-Canada Border in MN and ND to Baltimore, MD; Chicago, IL, and Minneapolis, MN. An underlying ETA seeks 120 days authority. Supporting shipper: Canadian Gardens Products, 132 James Ave. East, Winnipeg, Manitoba, Canada S3B 0N8.

MC 15975 (Sub-4-15TA), filed October 27, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *Wire shelving and parts*, from Farmington, MI, to Pierceton, Greenfield and Lafayette, IN, and from Pierceton, Greenfield and Lafayette, IN, to Bridgeton, MO. An underlying ETA seeks 120 days authority. Supporting shipper(s): Chesley Industries, 20775 Chesley Drive, Farmington, MI 48024.

MC 15975 (Sub-4-16TA), filed October 27, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *Cleaning washing compounds, cleaning washing liquids, soap and soap products, textile softener, margarine, syrup, vegetable oils, toilet preparations, mouthwash, and materials, supplies and equipment used*

in the manufacture or distribution of the foregoing commodities, between St. Louis, MO, on the one hand, and, on the other, points in OH, NC, TX, CO, MI, MN, LA, NJ, RI, IN, GA and MD. Restricted to traffic originating at or destined to the facilities of Lever Brothers Company. An underlying ETA seeks 120 days authority. Supporting shippers: Lever Brothers Company, 1400 N. Pennsylvania Ave., St. Louis, MO 63133.

MC 150535 (Sub-4-6TA), filed October 27, 1980. Applicant: BULS EYE TRANSPORT, INC., Suite 2424, 33 North Dearborn St., Chicago, IL 60602. Representative: Anthony E. Young, 29 S. LaSalle St., Chicago, IL 60603. *Foodstuffs and commodities used in the processing, distribution, and manufacture of foodstuffs*, between Archbold, OH on the one hand, and, on the other points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Beatrice Frozen Specialty Foods 601 McArthur P.O. Box 180 Archbold, OH.

MC 148314 (Sub-4-TA), filed October 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. *Cannel coal logs*, from Warren, OH, to points in the United States in and east of ND, SD, NE, KS, OK and TX, for 270 days. Supporting shipper: Concept One Marketing, Inc., 8440 Market St., Youngstown, OH 44507.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, P.O. Box 7413, San Francisco, CA 94120.

MC 152338 (Sub-6-1TA), filed October 24, 1980. Applicant: A & R LUMBER SALES, INC., P.O.B. 47, Junction City, OR 97448. Representative: Robert B. Taylor, 882 Van Buren Street, Eugene, OR 97402. *Contract, Irregular, Gypsum wallboard and commodities used in the application thereof*, from Contra Costa County, CA to OR and WA for 270 days. Supporting shipper: Domtar Gypsum America, Inc., 1221 Broadway Seventh Floor, Oakland, CA 94612.

MC 151132 (Sub-6-2TA), filed October 24, 1980. Applicant: AMERICAN WESTERN TRANSPORT, INC., P.O. Box 20622, Salt Lake City, UT 84120. Representative: Chester A. Zylblut, 366 Executive Building, 1030-15th St., N.W., Washington, D.C. 20005. *Such materials as are dealt in and distributed by manufacturers of fasteners, and materials and supplies used in the manufacturing and distribution of the aforementioned commodities*, between Salt Lake City, UT, on the one hand,

and, on the other, points in WY, CO, AR, ID, MT, NV, OR, WV and CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Fasteners Engineering and Sales Corp., Salt Lake City, UT 84101.

MC 151132 (Sub-6-3TA), filed October 24, 1980. Applicant: AMERICAN WESTERN TRANSPORT, INC., P.O. Box 20622, Salt Lake City, UT 84120. Representative: Chester A. Zyblut, 366 Executive Building, 1030-15th St., N.W., Washington, D.C. 20005. *Sporting goods and athletic equipment and such goods that are dealt in the retail trade of sporting goods and athletic equipment*, from points in the U.S. (except AK, HI, and UT), to Salt Lake City, UT, and points in its commercial zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: UDISCO, Salt Lake City, UT 84119.

MC 144208 (Sub-6-2TA), filed October 23, 1980. Applicant: ART NORDANG TRUCKING, INC., P.O. Box 507, Methow, WA 98834. Representative: Boyd Hartment, P.O. B. 3641, Bellevue, WA 98009. (1) *Prefabricated Iron and Steel Articles*, from Wenatchee, WA to points in ID. (2) *Petroleum Products*, in packages, drums and cartons, and *Antifreeze* between the Portland, OR, commercial zone and points in King, Chelan, Douglas and Okanogan Counties WA for 270 days. Supporting shippers: Budget Fuel and Service Co., P.O. B. 1299, Wenatchee, WA, and Pybus Steel, 8 E. Orondo, Wenatchee, WA 98801.

MC 149118 (Sub-6-2TA), filed October 24, 1980. Applicant: BEST WAY TRANSPORT, INC., d.b.a. BEST TRANSPORT, INC., 3841 North Columbia Boulevard, Portland, OR 97217. Representative: Michael D. Crew, 1700 Standard Plaza, Portland, OR 97204. (1) *Contractors equipment, materials and supplies, and (2) commodities which because of their size or weight require the use of special equipment (except those in (1) above)* from points in Multnomah County OR to points in Jefferson County OR. An underlying ETA seeks 120 days authority. Supporting shipper: Arthur J. Fritz & Company, 3601 N. W. Yeon, Portland, OR.

MC 152328 (Sub-6-1TA), filed October 24, 1980. Applicant: CANWIN ENTERPRISES, INC., P.O. Box 9854, Yakima, WA 98903. Representative: S. C. Adams, Jr., 4413 Carriage Hill Drive, Yakima, WA 98908. (1) *Common Carrier*, regular route, transporting; *General Commodities*, except commodities in bulk, those requiring special equipment, commodities of unusual value, Classes A and B Explosives, and household

goods as defined by the commission, for 270 days. Between Wenatchee, WA, and ports of entry on the United States-Canadian international boundary line near Oroville, WA. From Wenatchee, WA, over Wenatchee Avenue to its junction with U.S. Hwy 97, then over U.S. Hwy 97 to the U.S.-Canadian international boundary line and return over the same route. Supporting shippers: There are 8 supporting shippers. Their statements may be examined at the regional office listed.

MC 115523 (Sub-6-2TA), filed October 24, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 N. Beck St., Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same as applicant). *Borax*, from U.S. Borax plant, Boron, CA to Sandy and Draper, Salt Lake County, UT and Lehi, Utah County, UT for 270 days. Supporting shipper: Insul-Chem, Inc., Salt Lake City, UT 84070.

MC 151230 (Sub-6-1TA), filed October 14, 1980. Applicant: GORDON H. COLE, P.O. B. 445, Pioche, NV 89043. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV. 89701. *Iron or steel grinding balls*, from Tempe and Chandler, AZ to Mountain Pass, CA and to points in Lincoln County, NV, for 270 days. Supporting shippers: Union Moly Corp., Inc., Mountain Pass, CA 92366, and Standard Slag (Atlanta Mine), P.O. Box 538, Pioche, NV 89043.

MC 152307 (Sub-6-1TA), filed October 23, 1980. Applicant: COLUMBIA TRUCKING CO., INC., 1911 No. Wenatchee Ave., P.O. Box 2142, Wenatchee, WA 98101. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055. (1) *Produce and Food Products*; (2) *Wine and Beer*; in (1) from points in WA to points in CA; in (2) from points in CA, OR, WA to points in WA and ID, for 270 days. Supporting shipper: There are 5 supporting shippers. Their statements may be examined at the regional office listed.

MC 42487 (Sub-6-43TA), filed October 27, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier*, regular routes: *General commodities, (except household goods as defined by the Commission, and Classes A and B explosives)*, (1) Between Memphis, TN and Union City, TN, serving the intermediate points of Covington and Newbern, TN and serving the junction U.S. Hwy 51 and Interstate Hwy 155 for purpose of joinder only: From Memphis over U.S. Hwy 51 to Union City, and return over the same route. (2) Between Memphis, TN and Paris, TN serving the

intermediate points of Brownsville, Humboldt, Milan and McKenzie, TN: From Memphis over U.S. Hwy 79 to Paris, and return over the same route. (3) Between Union City, TN and Paris, TN, serving the intermediate points of Martin and Dresden, TN: From Union City over TN Hwy 22 to junction TN Hwy 54, then over TN Hwy 54 to Paris, and return over the same route. (4) Between Union City, TN and Humboldt, TN, serving the intermediate points of Kenton and Trenton, TN: From Union City, TN over U.S. Hwy 45W to Humboldt, and return over the same route. (5) Between Humboldt, TN and Corinth, MS, serving the intermediate points of Jackson, Bemis and Henderson, TN and serving the junction U.S. Hwy 45 and U.S. Hwy 64 for purpose of joinder only: From Humboldt over U.S. Hwy 45W to junction U.S. Hwy 45, then over U.S. Hwy 45 to Corinth, and return over the same route. (6) Between Brownsville, TN and Jackson, TN, serving no intermediate points: From Brownsville over U.S. Hwy 70 to Jackson, and return over the same route. (7) Between Memphis, TN and junction U.S. Hwy 45 and U.S. Hwy 64, serving the intermediate point of Bolivar, TN: From Memphis over U.S. Hwy 64 to junction U.S. Hwy 45 and U.S. Hwy 64, and return over the same route. (8) Between St. Louis, MO and junction U.S. Hwy 51 and Interstate Hwy 155, serving no intermediate points: From St. Louis over U.S. Hwy 61 to junction Interstate Hwy 155, then over Interstate Hwy 155 to junction U.S. Hwy 51 and Interstate Hwy 155, and return over the same route, for 270 days. Applicant intends to tack and interline. Supporting shipper(s): There twenty-three (23) supporting shippers. Their Statements may be examined at the Regional Office listed.

MC 42487 (Sub-6-44TA), filed October 27, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier*, regular routes: *General commodities (except household goods as defined by the Commission, and Classes A and B explosives)*, (1) Between Memphis, TN and Baton Rouge, LA, serving the intermediate points of Cleveland, Vicksburg and Natchez, MS, and serving the junction U.S. Hwy 61 and U.S. Hwy 82 and the junction U.S. Hwy 82 and MS Hwy 5, for purpose of joinder only: From Memphis over U.S. Hwy 61 to Baton Rouge, and return over the same route. (2) Between Memphis, TN and Laplace, LA, serving the intermediate points of Batesville, Grenada, Winona, Canton, Jackson,

Crystal Springs, Hazelhurst, Brookhaven and McComb, MS and Hammond, LA: From Memphis over U.S. Hwy 51 to Laplace, and return over the same route. (3) Between Corinth, MS and New Orleans, LA, serving the intermediate points of Booneville, Baldwin, Tupelo, Columbus, Meridian, Laurel, Hattiesburg and Poplarville, MS and serving Shannon and Brooksville, MS for purpose of joinder only: From Corinth over U.S. Hwy 45 to Meridian, then over U.S. Hwy 11 to New Orleans, and return over the same route. (4) Between Shannon, MS and Brooksville, MS, serving the intermediate point of West Point, MS, and serving the termini of Shannon and Brooksville, MS for purpose of joinder only and the junction Alt. Hwy 45 and U.S. Hwy 82 for purpose of joinder only: From Shannon over Alt. U.S. Hwy 45 to Brooksville, and return over the same route. (5) Between Memphis, TN and Tusculumbia, AL, serving the intermediate points of Corinth, Burnsville and Iuka, MS: From Memphis over U.S. Hwy 72 to Tusculumbia, and return over the same route. (6) Between Clarksdale, MS and Birmingham, AL, serving the intermediate points of Batesville, Oxford, Pontotoc and Tupelo, MS and Hamilton, AL, and serving the junction U.S. Hwy 82 and MS Hwy 6 for purpose of joinder only: From Clarksdale over MS Hwy 6 to Tupelo, then over U.S. Hwy 78 to Birmingham, and return over the same route. (7) Between Breenville, MS and Birmingham, AL, serving the intermediate points of Greenwood, Winona, Starkville and Columbus, MS and serving the junction U.S. Hwy 61 and U.S. Hwy 82 and the junction Alt. Hwy 45 and U.S. Hwy 82 for purpose of joinder only: From Greenville over U.S. Hwy 82 to Tuscaloosa, AL, then over U.S. Hwy 11 to Birmingham, and return over the same route. (8) Between Vicksburg, MS and Birmingham, AL, serving the intermediate points of Clinton, Jackson, Pearl, Brandon, Newton and Meridian, MS, and York and Livingston, AL: From Vicksburg over U.S. Hwy 80 to Meridian, then over U.S. Hwy 11 to Birmingham, and return over the same route. (9) Between Memphis, TN and Tupelo, MS, serving the intermediate point of Holly Springs, MS: From Memphis over U.S. Hwy 78 to Tupelo, and return over the same route. (10) Between Jackson, MS and Hattiesburg, MS, serving no intermediate points: From Jackson over U.S. Hwy 49 to Hattiesburg, and return over the same route. (11) Between Natchez, MS and Hattiesburg, MS, serving the intermediate point of Mc Comb, MS: From Natchez over U.S. Hwy

84 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Hattiesburg, and return over the same route. (12) Between Hattiesburg, MS and Mobile, AL, serving no intermediate points: From Hattiesburg over U.S. Hwy 98 to Mobile, and return over the same route. (13) Between Meridian, MS and Mobile, AL, serving the intermediate points of Shubuta and Waynesboro, MS: From Meridian, over U.S. Hwy 45 to Mobile, and return over the same route, for 270 days. Authority will be tacked and interlined. Supporting shipper(s): There are fifty-two (52) supporting shippers. Their statements may be examined at the Regional Office listed.

MC 151059 (Sub-6-2TA), filed October 23, 1980. Applicant: COWBOY OIL COMPANY, Box 47, Woods Cross, UT 84087. Representative: F. Robert Reeder, P.O.B. 11898, Salt Lake City, UT 84147. *Contract carrier*, irregular routes: *crude petroleum* from points in Sweetwater, Sublette, Lincoln and Uinta Counties, WY, to Davis County, UT, for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Listo Petroleum, Inc., 2200 S.W. Freeway, Suite 500, Houston, TX 77098.

MC 136605 (Sub-6-20TA), filed October 24, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 549807. Representative: Allen P. Felton (same as applicant). *Foods stuffs and pet foods*, from the facilities of Ralston Purina Company at or near Denver, CO to points in ID, MT and WA, for 270 days. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 133478 (Sub-6-2TA), filed October 24, 1980. Applicant: DG TRANSPORT, INC., P.O. Box 23727, Portland, OR 97223. Representative: Peter H. Glade, One SW Columbia, Suite 555, Portland, OR 97258. *Contract carrier*, irregular routes: *Building Materials* between points in the U.S. for the account of Sintree Forest Products, Inc. for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Sintree Forest Products, Inc., P.O.B. 564, Lake Oswego, OR 97034.

MC 147018 (Sub-6-1TA), filed October 23, 1980. Applicant: DK TRUCKING, 3121 E. La Palma Unit T, Anaheim, CA 92806. Representative: Douglas K. Nakamura (same address as applicant). *Mobile Homes and Modular Units* from points in Orange, Los Angeles, Riverside and San Bernardino Counties, to points in AZ and NV, for 270 days. Supporting shipper: Fuqua Homs Inc., 14286 E. Sixth St., Corona, CA 91720.

MC 118038 (Sub-6-2TA), filed October 24, 1980. Applicant: EASLEY HAULING

SERVICE, INC., P.O. Box 10, Yakima, WA 98907. Representative: Flower & Andreotti, P.S., 303 East "D" Street, Suite 2, Yakima, WA 98901. *Canned and Bottled fruit juices*, from points in Yakima County, WA, to points in OR, for 270 days. Supporting shipper: Hi-Country Foods Corporation, No. 1 Railroad Ave., P.O. Box 338, Selah, WA 98942.

MC 152330 (Sub-6-1TA), filed October 24, 1980. Applicant: GLACIER CARRIERS, Box 1438, Kalispell, MT 59901. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Contract carrier*, irregular routes: (a) *Lumber and wood products*, and (b) *materials, equipment and supplies* used in the production and distribution of the commodities set forth in part (a), between Fortine, Ronan, Kalispell and Columbia Falls, MT and Arden, WA on the one hand, and, on the other, points in and west of the States of MI, OH, IN, IL, MO, OK and TX, under a continuing contract(s) with Plum Creek Lumber Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Plum Creek Lumber Company, P.O. Box 160, Columbia Falls, MT 59912.

MC 152311 (Sub-6-1TA), filed October 23, 1980. Applicant: IMR TRANSPORTATION, INC., P.O. Box 573, Casa Grande, AZ 85222. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Cottonseed oil*, from the facilities of Casa Grande Oil Mill in Casa Grande, AZ to Los Angeles County, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Casa Grande Oil Mill, a Division of Chickasha Cotton Oil Co., P.O. Box 959, Casa Grande, AZ.

MC 139906 (Sub-6-45TA), filed October 22, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Such commodities as are dealt in or used by manufacturers of kidney dialysis equipment* between Miami, FL and Concord, CA for 270 days. Supporting shipper: Cordis-Dow Corp., P.O. Box 450990, Miami, FL 33145.

MC 146272 (Sub-6-1TA), filed October 23, 1980. Applicant: J & H TRUCKING, LTD., Box 255, Lillooet, B.C., Canada VOK 1V0. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Contract Carrier*, irregular routes: *Lumber, lumber products, veneer, building board and materials, equipment and supplies* used in the manufacture, supply and distribution of lumber, lumber products,

vener and building board, between ports of entry on the international boundary line between the U.S. and Canada located at or near Blaine and Sumas, WA on the one hand, and, on the other, Longview, WA for the account of Evans Products, Ltd., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Evans Products, Ltd., Box 880, Lillooet, B.C., Canada.

MC 148846 (Sub-6-2TA), filed October 24, 1980. Applicant: JETWAL, INC., P.O. Box 512, Sterling, CO 80751. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Liquid feed ingredients (in tank vehicles)*, from Omaha, NE, Atchison, KS and Kansas City, MO and their commercial zones to the facilities of Cargill, Inc., at or near Sterling, CO, Garden City, KS and Stratford, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cargill, Inc., P.O. Box 9300, Minneapolis, MN, 55440.

MC 152310, (Sub-6-1TA), filed October 23, 1980. Applicant: M & M EQUIPMENT COMPANY, INC., 24400 E. Alameda Ave., Aurora, CO 80011. Representative: Marvin M. Edelman (same address as applicant). *Meats, meat products and meat by-products, and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)*, from Dawson, County, NE to points in KS, IA, TX, MS, AL, GA, TN, IL, OH, LA and CO for 270 days. Underlying ETA filed seeking 120 days authority. Supporting shipper: Doug Dale Packing Company, Cozad, NE.

MC 152210 (Sub-6-1TA), filed October 22, 1980. Applicant: WESTERN TANK SERVICE, INC., d.b.a. Northwest Tank Service, P.O. Box 3641, Seattle, WA 98124. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. *Industrial waste* between points in OR, WA, ID, MT, UT for 270 days. Underlying ETA request, 120 days. Supporting shippers: Chem Security System, Inc., P.O. Box 1866, Bellevue, WA 98009.

MC 117589 (Sub-6-4TA), filed October 24, 1980. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. *Alcoholic beverages (except in bulk)*, between points in the commercial zone of Portland, OR on the one hand, and on

the other, points in the commercial zone of Denver, CO, for 270 days. Supporting shipper: Mile Hi Liquor Distributors, 1719 Denargo Market, Denver, CO 80216.

MC 152357 (Sub-6-1TA), filed October 27, 1980. Applicant: RONALD GENE STINE, d.b.a. R. G. STINE TRUCKING, 801 South Santa Fe, Visalia, CA 93277. Representative: Donald R. Hedrick, P.O. Box 88, Norwalk, CA 90650. *Contract carrier, irregular routes: Canned and preserved foodstuff*, between points in CA on the one hand, and, on the other, points in OR, WA and UT, for the account of Early California Foods, for 270 days. Supporting shipper: Early California Foods, 10960 Wilshire Blvd., Los Angeles, CA.

MC 146822 (Sub-6-5TA), filed October 15, 1980. Applicant: EUGENE L. FRAZIER, d.b.a. SUNSET TRANSPORT SYSTEMS, 2200 N. Parmalee, Compton, CA 90222. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Electrical equipment and instruments, printed matter and lumber or wood products* between points in the United States, restricted to traffic originating at or destined to the facilities of Atari, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Atari, Inc., 1215 Borregas Ave., Sunnyvale, CA 94086.

MC 133097 (Sub-6-2TA), filed October 24, 1980. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Ave., Cypress, CA 90630. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. *Contract: irregular: Engines, transmissions, axles, automotive parts and accessories, carriers, pallets and skids*, (1) Between Bridgewater, NJ and its commercial zone, and, Chicago, IL and its commercial zone; (2) between Chicago, IL and its commercial zone, and, Hayward, CA and its commercial zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Mack Trucks, Inc., P.O. Box 6311, Bridgewater, NJ 08807.

MC 26396 (Sub-6-51TA), filed October 27, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. (1) *Non-ferrous metals*, and (2) *Materials, equipment and supplies utilized in the manufacture and distribution of non-ferrous metals*, between the facilities of ASARCO, Inc., at or near Hayden, AZ; East Helena, MT; Omaha, NE; El Paso, TX; and Tacoma, WA, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days.

Supporting shipper: ASARCO, Inc., 611 Olive Street, St. Louis, MO 63101.

MC 126327 (Sub-6-4TA), filed October 23, 1980. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Suite 11, Santa Clara, CA 95050. Representative: Laura M. Robinson (same address as applicant). *Paper and paper products*, (1) From Flagstaff, AZ, and St. Helens, OR, to points in CA, and (2) from Cerritos and La Palma, CA, to points in AZ, NV, OR and WA, for 270 days. Supporting shipper: Orchids Paper Products, 5911 Fresca Drive, La Palma, CA 90623.

MC 148791 (Sub-6-5TA), filed October 21, 1980. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Road, Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier, Irregular routes: Commodities dealt in or used by retail grocery outlets*, between points in CA and AZ, for the account of Associated Grocers for 270 days. Supporting shipper: Associated Grocers, 624 South 25th Avenue, Phoenix, AZ 85035.

MC 152329 (Sub-6-1TA), filed October 24, 1980. Applicant: ROBERT F. WALL, d.b.a. ROBERT F. WALL TRUCKING, 933 Fredensborg Canyon Road, Solvang, CA 93463. Representative: Patricia M. Schnegg, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Packing house products* from Amarillo, TX and Wichita, KS to Los Angeles County, CA for 270 days. Supporting shipper: Kal-Kan Foods, Inc., 3386 E. 44th St., Vernon, CA 90058.

MC 151611 (Sub-6-4TA), filed October 20, 1980. Applicant: WAYFARE TRUCKING, INC., 725 Industrial Way, Port Hueneme, CA 93041. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111. *Contract Carrier, Irregular routes: Iron sand, shot or grit, except ammunition*, between Adrian, MI and Butler, PA, on the one hand, and AZ, CA, CO, OR and WA on the other hand, under continuing contracts with Ervin Industries for 270 days. Supporting shipper: Ervin Industries, 121 South Division St., Ann Arbor, MI 48106.

MC 112989 (Sub-6-11TA), filed October 23, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 S., Eugene, OR 97405. Representative: John W. White, Jr. (same as applicant). *Paper and paper products*, from Flagstaff, AZ to points in CA. Supporting shipper: Orchid Paper Products, 5911 Fresca Dr., La Palma, CA 90623.

MC 112989 (Sub-6-12TA), filed October 23, 1980. Applicant: WEST

COAST TRUCK LINES, INC., 85647 Highway 99 S., Eugene, OR 97405. Representative: John W. White, Jr. (same as applicant). *Paper and paper products, and woodpulp*, from Port Townsend, WA to points in OR, NV, CA, AZ, ID, and UT, for 270 days. Supporting shipper: Crown Zellerbach, 1500 S.W. First Ave., Portland, OR 97405.

MC 141804 (Sub-6-85TA), filed October 22, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Chemicals in drums and packages; proprietary antifreeze preparations in drums and packages*, from Harris County, TX, Jefferson County, TX, Montgomery County, TX and Travis County, TX to all points in the United States (except AK & HI), for 270 days. Supporting shipper: Texaco Chemical Company, a Division of Texaco, Inc., 4800 Fournace, Bellaire, TX 77401.

MC 152294 (Sub-6-1TA), filed October 22, 1980. Applicant: WOLF TANK LINES, INC., d.b.a. WOLF TRUCKING COMPANY, 2100 Curry Street, Long Beach, CA 90805. Representative: William Wolf (same as applicant). *Contract carrier: irregular routes: Carbon Black in Bags*, from Norrick, TX to points and places in CA, for 270 days. Supporting shipper: Ashland Chemical Company, P.O. Box 2219, Columbus, OH 43216.

MC 152308 (Sub-6-1TA), filed October 23, 1980. Applicant: KENNETH WOODWARD, d.b.a. KEN WOODWARD TRUCKING, 4239 N. E. Simpson, Portland, OR 97218. Representative: Louis A. Santiago, 1200 S. W. Main Building, Portland, OR 97205. *General commodities (except class A and B explosives and household goods as defined by the Commission)*, between points in OR and WA, for 270 days. Supporting shipper(s): Western States Shippers Association, Inc. 4940 N. E. 122d Avenue, Portland, OR 97230. Agatha L. Mergenovich, Secretary.

[FR Doc. 80-34509 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 C.F.R. 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices with 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, The Motor Carrier Board, Members Krock, Williams and Taylor.

By decision of September 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to Triple R. Forwarding, Inc. of Freight Forwarder Permit No. FF-260, issued January 12, 1973, to Triple R. Trucking Company, Inc. authorizing the transportation, in interstate or foreign commerce, as a freight forwarder of baggage and personal effects of campers, (1) between points in Nassau, Suffolk, Queens, Kings, Bronx, New York, Richmond, Westchester and Rockland Counties, NY, and Bergen, Essex, Passaic, Union and Hudson Counties, NJ, on the one hand, and, on the other, points in Orange, Dutchess, Ulster, Sullivan, Schoharie, Albany, Rensselaer, Putnam, Columbia, Greene, Broome, and Delaware Counties, NY; Litchfield, Fairfield, Hartford and New Haven Counties, CT; Hampden, Hampshire and Berkshire Counties, MA, and Bradford, Susquehanna, Wayne, Pike, Northampton, Carbon, Luzerne,

Monroe, Wyoming and Philadelphia Counties, PA; (2) between points in Philadelphia, Bucks and Chester Counties, PA, and Mercer, Monmouth, Ocean, Burlington, Camden, Gloucester, Salem and Atlantic Counties, NJ, on the one hand, and, on the other, points in Orange, Dutchess, Ulster, Sullivan, Delaware, Schoharie, Albany, Rensselaer, Putnam, Columbia, Greene and Broom Counties, NY and Delaware, NY; Fairfield, Hartford, Litchfield and New Haven Counties, CT; Hampden, Hampshire, Franklin and Berkshire Counties, MA, and Bradford, Susquehanna, Wayne, Pike, Northampton, Carbon, Luzerne, Monroe and Wyoming Counties, PA; (3) between Fairfield, New Haven and Hartford Counties, CT; Baltimore County, MD; Washington, DC; New Castle and Kent Counties, DE, and Fairfax County, VA, on the one hand, and, on the other, points in Orange, Dutchess, Ulster, Sullivan, Delaware, Schoharie, Albany, Rensselaer, Putnam, Greene, Broome, Washington, Warren, Hamilton, Essex, Herkimer, Chenango and Franklin Counties, NY; Fairfield, Hartford and New Haven Counties, CT; Hampden, Hampshire, Franklin and Berkshire Counties, MA, and Bradford, Susquehanna, Wayne, Pike, Northampton, Carbon, Luzerne, Monroe and Wyoming Counties, PA; (4) between Points in Nassau, Suffolk, Queens, Kings, Bronx, New York, Richmond, Westchester and Rockland Counties, NY; Philadelphia, Bucks, Chester and Montgomery Counties, PA, and Pergen, Essex, Passaic, Union, Hudson, Mercer, Monmouth, Ocean, Burlington, Camden, Gloucester, Salem and Atlantic Counties, NJ, on the one hand, and, on the other, points in Washington, Warren, Hamilton, Essex, Herkimer, Chenango and Franklin Counties, NY, and (5), between New York, NY, points in Nassau, Suffolk, Westchester and Rockland Counties, NY; Bergen, Essex, Passaic, Union, Hudson, Mercer, Monmouth, Ocean, Burlington, Camden, Gloucester, Salem and Atlantic Counties, NJ; Bucks, Chester, Montgomery and Philadelphia Counties, PA; Fairfield, New Haven and Hartford Counties, CT; Baltimore County, MD; New Castle and Kent Counties, DE, and Fairfax County, VA, and Washington, DC, on the one hand, and, on the other, points in ME, NH and VT.

Applicant's representative is: Bruce J. Robbins, Esq., 115-21 Queens Boulevard, Forest Hill, NY 11375.

Note.—The operating authority transferred will be assigned under transferee's name, in the FF-260 docket number series. Upon consummation applicants are encouraged to draft certificates or permits reflecting the

authority authorized to be transferred. The draft certificate or permit should be addressed to the appropriate Teams according to the certificate number.

No. MC-FC-78717. Republication. By decision of August 15, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Flying L Trucking Co., a corporation, of Thousand Oakes, CA, of Permit No. MC-141071 (Sub-Nos. 2, 3, 4, 7, 8, 9, and 10 issued April 15, 1977, January 13, 1977, July 12, 1977, June 29, 1978, February 3, 1979, April 13, 1978, and July 13, 1979, respectively, to Laraneta Trucking Company, Inc., of Terminal Island, CA, authorizing the transportation of (1) pet food and canned tuna, from Terminal Island, CA, to points in Oregon and Washington, under a continuing contract, or contracts, with Star-Kist Foods, Inc., of Terminal Island, CA. (2) pet food, from Perham, MN, and Muscatine, IA, to Terminal Island, CA, under a continuing contract, or contracts, with Star-Kist Foods, Inc. of Terminal Island, CA. (3)(a) material, equipment, and supplies used in the productions, packaging, or distribution of frozen foods (except frozen foods, commodities in bulk, and commodities which because of sugar weight require the use of special equipment from points in California, Oregon, and Washington, to Burley, ID and from points in California and Washington to Ontario, OR and (b) frozen foods (except commodities in bulk), from Ontario, OR and points in Idaho, to Las Vegas, NV, under a continuing contract, or contracts, with One-Ida Foods, Inc., of Boise, ID, (4) pet food and canned tuna, from Terminal, CA, to points in Idaho and Utah under a continuing contract, or contracts, with Star-Kist Foods, Inc. (5) pet foods, from Perham, MN and Muscatine, IA, to San Jose, CA, under a continuing contract, or contracts, with Star-Kist Foods, Inc. (6) canned and preserved foodstuffs, from the plantsites and storage facilities of Heinz-U.S.A., Division of H. J. Heinz Company, located at or near Tracy and Stockton, CA, to points in Idaho, Oregon, Utah, and Washington, under a continuing contract, or contracts, with Heinz-U.S.A., Division of H. J. Heinz Company, and (7) canned and preserved foodstuffs, between the facilities of Heinz-U.S.A., Division of H. J. Heinz Company, at or near Tracy and Stockton, CA, on the one hand, and, on the other, the facilities of Heinz-U.S.A., Division of H. J. Heinz Company, at or near Muscatine and Iowa City, IA, under a continuing contract, or contracts, with Heinz-U.S.A., Division of H. J. Heinz Company. Applicant's

representative is: William J. Monheim, P.O. Box 1756, Whittier, CA 90609.

Notes.—(1) An application for temporary authority was granted on August 15, 1980. (2) The purpose of this republication is to correct typographical errors in the notice of this proceeding published at 45 Federal Register 59012 and 59013.

MC-FC-78736. By decision of September 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Crown Transportation, Inc. of Colorado Springs, CO of Certificate No. 105327 issued to The Leadville Transit Company, Inc. authorizing the transportation over regular routes of passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers, between Delores, CO and Shiprock, NM, serving all intermediate points: From Delores over Colorado Highway 145 to junction U.S. Highway 160, thence over U.S. Highway 160 to Cortez, CO (also from Delores over Colorado Highway 147 to junction U.S. Highway 160, thence over U.S. Highway 160 to Cortez), and thence over U.S. Highway 666 to Shiprock, and return over the same route. Serving the point of Towaoc, CO, over unnumbered highways from U.S. Highway 666, and return. Between junction U.S. Highway 160 and Colorado Highway 140, and junction New Mexico Highway 17 and U.S. Highway 550, serving all intermediate points: From junction U.S. Highway 160 and Colorado Highway 140, over Colorado Highway 140 to the Colorado-New Mexico State line, thence over New Mexico Highway 17 to junction U.S. Highway 550, and return over the same route. Applicants' representative is: Susan B. Price, Esq., 1700 Western Federal Building, Denver, CO 80202.

MC-FC-78737. By decision of September 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Central Banana Carriers, Inc. of Ashland, VA of Certificate No. MC-117743 issued November 24, 1961 to Peter R. Jacobs, d/b/a Central Banana Carriers of Richmond, VA authorizing the transportation of *Bananas*, From Norfolk, VA, to Boston, MA, Chicago, IL, Indianapolis, IN, Louisville, KY, Huntington and Wheeling, WV, Richmond, VA, the District of Columbia, and points in Michigan, Ohio, and Pennsylvania, with no transportation for compensation on return except as otherwise authorized. From Baltimore, MD, and Charleston, SC, to Norfolk and Richmond, VA, with no transportation for compensation on return except as

otherwise authorized. From Philadelphia, PA, to Norfolk, VA, with no transportation for compensation on return except as otherwise authorized. From New York, NY, to Richmond, VA, with no transportation for compensation on return except as otherwise authorized. Applicants' representative is: Stanley I. Goldman, Esq., Denning & Wohlstetter, 1700 K Street, NW., Washington, DC 20096. Transferee presently holds no authority from the Commission.

MC-FC-78747. By decision of September 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to George L. Hooker, Inc., of Uhrichsville, OH, of Permit No. MC-111560 and MC-111560 (Sub-No. 6) issued September 1, 1959, and September 26, 1974, respectively to Albert DeBraccio (Albert DeBraccio, Jr., Administrator) of Uhrichsville, OH, authorizing the transportation in MC-111560 of *aluminum storm windows and doors*, and, in connection therewith, *moldings and parts, glass, screen wire, and plastic and rubber items* used or useful in the assembly of aluminum doors and windows, From Gnadenuhthen, Ohio, to points in Alabama, Colorado, Florida, Georgia, Kansas, New Jersey, Tennessee, and Wisconsin; From Sugar Creek, Ohio to points in Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia; and *Scrap aluminum*, From the above-specified destination points to their respective points of origin. *Aluminum siding, and accessories and related articles* used in the application of aluminum siding, From Gnadenuhthen, Ohio, to points in Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia; and *Scrap aluminum*, From the destination points specified immediately above to Gnadenuhthen, Ohio. Restriction: The operations authorized herein above are limited to a transportation service to be performed under a continuing contract, or contracts, with Alisco, Inc., Akron, Ohio. *Aluminum storm windows and doors*, and in connection therewith, *moldings and parts, glass, screen wire, and plastic and rubber items* used or useful in the assembly of aluminum doors and windows, From Akron, Ohio, to points in Illinois, Indiana, Iowa,

Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia; From Gnadenuhnten, Ohio, to points in Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia; and *Scrap aluminum*, From the destination points specified immediately above to their respective points of origin, and in MC-111560 (Sub-No. 6) *aluminum storm windows and doors and materials* used in the assembly thereof, and *aluminum siding and accessories* used in the application thereof, From Gnadenuhnten and Sugar Creek, Ohio, to points in Connecticut; and *Returned shipments* of the above-specified commodities and *empty containers* used in transporting such commodities, and *scrap aluminum*, From points in Connecticut to Gnadenuhnten and Sugar Creek, Ohio. *Aluminum storm windows and doors and materials* used in the assembly thereof, *aluminum siding, aluminum roofing, aluminum spouting, aluminum awnings, aluminum shutters, and materials* used in the installation thereof, From points in Franklin Township, Portage County, Ohio, to points in Alabama, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia; and *Scrap aluminum*, From points in the destination States named above to points in Franklin Township, Portage County, Ohio. *Materials, equipment, and supplies* used in the manufacture, assembly, installation, packing and shipping of: aluminum storm windows and doors, and materials used in the assembly thereof, aluminum siding, aluminum roofing, aluminum spouting, aluminum awnings, aluminum shutters, and materials used in the installation thereof, From points in Pennsylvania, Lakeview, Clifton, and Newark, NJ, and New York, Lakeview, and Fayetteville, NY, Hartford, CT, Boston, MA, Wheeling and Ravenswood, WV, Richmond, VA, Louisville, KY, Tate, GA, Miami, FL, South Bend and Elkhart, IN, Chicago, Addison and Elk Grove, IL, Detroit, MI, Des Moines, IA, Omaha, NE, and Denver, CO, to points in Franklin Township, Portage County, Ohio, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized

herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with AlSCO Anaconda, Inc., of Akron, Ohio. Applicant's Representative is: Richard H. Brandon, Attorney-at-Law, Post Office Box 97, 220 West Bridge Street, Dublin, OH 43017. Application for TA has been filed. Transferee holds authority under No. MC-26120.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34440 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: October 28, 1980.

In our recent decisions, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.2-percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, the 1.3-percent surcharge for United Parcel Service, nor in the 4.9-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy of the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday 12:01 a.m. October 31, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.
Agatha L. Mergenovich,
Secretary.

Appendix.—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax), January 1, 1979, 63.5 cents.

Date of Current Price Measurement and Price Per Gallon (Including Tax) October 27, 1980, 113.3 cents.

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1)	(2)	(3)	(4)
From transportation performed by owner-operators (apply to all truckload rated traffic)	Other (including less-than-truckload traffic)	Bus carriers	UPS
16.9	2.9	6.3	3.3
13.2	Percent Surcharge Developed 2.3	4.9	1.21
13.0	Percent Surcharge Allowed 2.3	4.9	1.3

¹ The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS' average percent of fuel expense to revenue figure as of January 1, 1979 (2.3 percent).

² The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80-34441 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decision; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 C.F.R. 1100.247. Special rule 247 was published in the Federal Register of July 3, 1980, at 45 F.R. 45539.

Person wishing to oppose an application must follow the rules under 49 C.F.R. 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

FINDINGS:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of title 49, Subtitle IV, United States Code, and the

Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed with 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OPI-062

Decided: Oct. 29, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 29910 (Sub-4-298F), filed October 17, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *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 Waxdale, WI, on the one hand, and, on the other, points in AR and MO.

MC 33641 (Sub-152F), filed October 23 1980. Applicant: IML FREIGHT, INC., 10 Exchange Place, Salt Lake City, UT 84111. Representative: Eldon E. Bresee (same address as applicant). Transporting *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 points in Elkhart County, IN as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 35320 (Sub-618F), filed October 22, 1980. Applicant: T.I.M.E.-DC, INC., 2598

74th St., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving Grand Rapids, MI, as an off-route point in connection with carrier's otherwise authorized regular-route operations.

MC 57311 (Sub-15F), filed October 16, 1980. Applicant: PUTNAM TRANSFER & STORAGE CO., a corporation, 1705 Moxahala Ave., Zanesville, OH 43701. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in OH and points in Boone, Campbell and Kenton Counties, KY, on the one hand, and, on the other, St. Louis, MO, and points in IL, IN, KY, MD, MI, PA, TN, VA, and WV.

MC 75320 (Sub-233F), filed October 16, 1980. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza; P.O. Box 22567, Jackson, MS 39205. Transporting *snow throwers, tillers, lawn equipment, and metal articles*, between points in Cuyahoga, Richland, and Huron Counties, OH, and Sunflower County, MS, on the one hand, and, on the other, points in AL, AR, GA, IA, IL, IN, KS, KY, LA, MO, MS, NE, NY, OH, OK, PA, TN, TX, and WI.

MC 75840 (Sub-139F), filed October 17, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35222. Representative: Royce Glass, 3400 Third Ave. South, Birmingham, AL 35222. Transporting (1) *foodstuffs*, and (2) *materials, equipment, and supplies* used in the manufacture of foodstuffs, between points in Jefferson County, AL, on the one hand, and, on the other, points in TX.

MC 104421 (Sub-35F), filed October 15, 1980. Applicant: ECONOLINES, INC., P.O. Box 623 D.T.S., Omaha, NE 68101. Representative: Roger W. Norris (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, hides, and foodstuffs), between points in Dodge and Washington Counties, NE, on the one hand, and, on the other, points in the U.S. (except AK, HI, and NE).

MC 114211 (Sub-478F), filed October 23, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., (same address as applicant). Transporting *iron and steel articles*, between points in AR, CO, IA, IL, IN, KS, MI, MN, MO, NE, OH, OK, SD, TX, and WI.

MC 115311 (Sub-401F), filed October 15, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *foodstuffs*, and *materials and supplies* used in the manufacture and distribution of foodstuffs, between points in Mecklenburg County, NC, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, UT and AZ.

MC 116101 (Sub-12F), filed October 15, 1980. Applicant: QUICK AIR FREIGHT, INC., Cargo Bldg., Columbus International Airport, Columbus, OH 43219. Representative: Russell S. Bernhard, 1625 K St. NW., Washington, DC 20006. Transporting *general commodities moving in express service* (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 OH, on the one hand, and, on the other, points in IL, IN, MI (except those in the Upper Peninsula), NY, and PA. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its certificate in MC 116101 (Sub-2).

MC 116510 (Sub-2F), filed October 22, 1980. Applicant: KEENAN TRANSIT CO., a corporation, 3600 North Ave., Melrose Park, IL 60161. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with (1) Clow Corporation, of Oak Brook, IL, and (2) Plexco, Division of Amsted Industries, Inc., of Franklin Park, IL.

MC 121470 (Sub-69F), filed October 17, 1980. Applicant: TANKSLEY TRANSFER COMPANY, a corporation, 801 Cowan St., Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting (1) *heat exchangers and heat equalizers*, (2) *heating, cooling, conditioning, humidifying*,

dehumidifying, and gas and liquid moving equipment, and (3) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), from points in Fayette County, KY, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 127921 (Sub-4F), filed October 16, 1980. Applicant: COOLEY TRANSPORT, INC., Route 8, Box 225, Inman, SC 29349. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Transporting *salt*, between Wilmington, NC, on the one hand, and, on the other, points in NC, SC, TN, AL, and GA.

MC 134761 (Sub-2F), filed October 16, 1980. Applicant: GRASSICK TRANSPORT LTD., 220 Esquimalt Road, Victoria, B.C. Canada V9A 3K9. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055. In foreign commerce only, transporting *newsprint* from points on the international boundary line between the U.S. and Canada in WA to points in CA.

MC 150810 (Sub-1F), filed October 20, 1980. Applicant: SUPERLINES CO., a corporation, P.O. Box 706, Crookston, MN 56716. Representative: Ralph Otto Eickhof, 23 South Main, Crookston, MN 56716. Transporting *citrus pellets*, between points in FL.

MC 152321F filed October 21, 1980. Applicant: BOB WHITE, d.b.a. TRI LAKES EXPRESS, 728 North Washington, Springfield, MO 65802. Representative: James C. Swearngen, P.O. Box 456, Jefferson City, MO 65102. Transporting *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 Springfield, MO, on the one hand, and, on the other, points in Boone and Carroll Counties, AR.

Volume No. OP4-106

Decided: Oct. 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 105566 (Sub-234F), filed October 22, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22309. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. (except AK and HI),

restricted to traffic originating at or destined to the facilities used by American Cyanamid Company and its subsidiaries.

MC 105566 (Sub-235F), filed October 22, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22309. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities used by American Cyanamid Company and its subsidiaries.

MC 145396 (Sub-7F), filed October 16, 1980. Applicant: BOYCE HOWARD, d.b.a. HOWARD TRUCKING, P.O. Box 165, Newport, AR 72112. Representative: John Paul Jones, P.O. Box 3140, Front St. Station, 189 Jefferson Ave., Memphis, TN 38103. Transporting *chemicals or allied products*, as described in Item 28 of the Standard Transportation Commodity Code, between points in AL, AR, GA, KS, KY, LA, MS, MO, OK, TN, and TX.

MC 152297F, filed October 22, 1980. Applicant: EUNICE McDANIEL RODGERS, d.b.a. RODGERS HOT SHOT, 7902 Braesdale, Houston, TX 77071. Representative: C.W. Ferebee, 720 No. Post Oak, Suite 230, Houston, TX 77024. Transporting *machinery, materials, equipment, and supplies* used in or in connection with the discovery, development, storage, transmission and distribution of natural gas and petroleum and their products and by products, (1) between points in Brazoria and Harris Counties, TX, on the one hand, and, on the other, points in LA and OK, and (2) between points in Terrebonne Parish, LA, on the one hand, and, on the other, points in TX and OK.

Volume No. OP4-108

Decided: Oct. 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 124296 (Sub-4F), filed September 29, 1980, previously noticed in the FR of October 15, 1980. Applicant: GEORGE L. BIGELOW TRUCKING, INC., 135 Wright St., Delavan, WI 53115. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *metal products, and Materials, equipment, and supplies* used in the manufacture and distribution of metal products, between points in the U.S., under continuing contract(s) with Wastainer, Inc., of Mukwonago, WI. NOTE: The purpose of this republication is to show the spelling of the name of

the shipper as Wastainer, Inc., instead of as Westainer, Inc.

MC 124887 (Sub-121F), filed October 21, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., ROUTE 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor 1101 Blackstone Bldg, Jacksonville, FL 32202. Transporting *chemicals, and equipment, materials and supplies* used in the manufacture and distribution of chemicals (except in bulk), between points in Forrest County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138157 (Sub-256F), filed October 17, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Transporting (1) *business forms, printed matter, office supplies, paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture, production, and distribution of commodities in (1) above, between points in Los Angeles, Orange, San Diego, and Santa Clara Counties, CA; Bossier County, LA; Milwaukee and Waukesha Counties, WI; Cook and Dupage Counties, IL; Dallas, Harris, and Bexar Counties, TX; Rockingham County, NC; Randolph Township, NJ; Salt Lake County, UT; Tulsa and Osage Counties, OK; and Guinnett County, GA.

MC 139006 (Sub-18F), filed October 21, 1980. Applicant: RAPIER SMITH, Rural Route 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. Transporting *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 the U.S. (except AK and HI), restricted to traffic originating at or destined to facilities used by Essex Group, Inc., and its subsidiaries.

MC 139906 (Sub-133F), filed October 22, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *magazines, periodicals, printed matter, and (2) materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Broward County, FL, on the one hand, and, on the other, points in U.S.

MC 143666 (Sub-1F), filed October 16, 1980. Applicant: B. Z. ENTERPRISES,

INC., 1867 E. Pole Rd., Everson, WA 98247. Representative: Jim Pitzer, 15 S. Grady Way—Suite 321, Renton, WA 98055. Transporting (1) *farm machinery, equipment, and supplies*, (2) *lumber products and pre-manufactured truss joints*, (3) *building materials and supplies*, and (4) *pre-fab metal buildings and metal products and milking parlor units*, from points in CA, CO, ID, NV, OR and UT to points in Whatcom County, WA.

MC 144166 (Sub-7F), filed October 21, 1980. Applicant: BILL STARR TRUCKING, INC., 1041 Vista Dr., Independence, MO 64056. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105 Transporting newsprint in *rolls and paper products*, between points in the U.S., under a continuing contract(s) with Clark Printing Co., of North Kansas City, MO.

MC 149026 (Sub-17F), filed October 21, 1980. Applicant: TRANS-STATES LINES, INC., P.O. Box 1486, Van Buren, AR 72956. Representative: Larry C. Price (same address as applicant). Transporting *telephone equipment, parts and supplies*, between Kearny, NJ, on the one hand, and, on the other, points in CA.

MC 150567 (Sub-64F), filed October 21, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting *such commodities* as are dealt in by department stores, drug stores and supermarkets, between points in the U.S., under continuing contract(s) with A & D Transco, of Seattle, WA.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-34442 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

Agricultural Cooperatives; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

October 31, 1980.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, non-exempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the

filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: International Farm Lines. Principal Mailing Address (Street No., City, State, and Zip Code): 5325 South Orange Blossom Trail, Orlando, FL 32809.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 5325 South Orange Blossom Trail, Orlando, FL 32809. Person to Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Carroll Fulmer, 5325 S. Orange Blossom Trail, Orlando, FL 32809.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Rainbow Rarm Lines, Inc. Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 14006-A, Orlando, FL 32857.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 2200 Forsyth Road, Orlando, FL 32807. Person to Whom Inquiries and Correspondence Should be Addressed (Name and Mailing Address): Stoney Mullins, P.O. Box 14006-A, Orlando, FL 32857.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-34508 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with

applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-061

Decided: October 29, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones

MC 142040 (Sub-7F), Filed October 16, 1980. Applicant: AMBER DELIVERY SERVICE, INC., P.O. Box 361, Malden, MA 02148. Representative: Joseph T. Bambrick, Jr., P.O. Box 216,

Douglasville, PA 19518. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP4-107

Decided: October 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 119777 (Sub-502F), filed October 17, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities*, between Minter City, MS; Albion and Tilihina, OK; Warrensburg, NY; Neillsville and Granton, WI; Grimes, IA; Setonville, IL; Alamitos, CA; Ellis, Spencer and Riversville, SD, Cheviot and Covedale, OH; Rio Grande City and Hidalgo, TX, Fruitville and Sunniland, FL; and Mount Airy, MD, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 119777 (Sub-501F), filed October 17, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities*, between Franklinton, Warnerton, Longbridge, Hamburg and Simmesport, LA; Cosby, King City, Grant City, Gentry, Bethany, and Albany, MO; Balaton, MN, Lamoni and Leon, IA; Mays and Mt. Auburn, IN; and Medary and Midway, WI, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor service for abandoned rail service.

Volume No. OP4-109

Decided: October 28, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 126896 (Sub-2F), filed October 21, 1980. Applicant: EVERETT DELIVERY SERVICE, INC., 17625 Filer, Detroit, MI 48212. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 143916 (Sub-1F), filed October 22, 1980. Applicant: McQUADE HEAVY HAULING, INC., RR No. 1, Sgt. Bluff, IA

51054. Representative: Edward A. O'Donnel, 1004 29th St., Sioux City, IA 51104. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-34443 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 33]

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by

applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 2900 (Sub-154 (M1F)), (Notice of Filing of Petition to Modify Certificate), filed May 9, 1980. Petitioner: RYDER TRUCK LINES, INC., 2050 Kings Rd., P.O. Box 2408-R, Jacksonville, FL 32203. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. Petitioner holds a motor *common carrier* certificate in MC 2900 Sub 154, issued February 18, 1972, authorizing transportation, over regular routes, of *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), between Charlotte, NC, and Knoxville, TN, serving no intermediate points, from Charlotte over Interstate Hwy 85 to junction NC Hwy 16, then over NC Hwy 16 to junction NC Hwy 10, then over NC Hwy 10 to junction US Hwy 321, then over US Hwy 321 to junction US Hwys 64 and 70, then over US Hwy 64 (also over US Hwy 70) to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction US Hwy 70 at or near Asheville, NC, then over US Hwy 70 to Knoxville, and return over the same route. Condition: That at the close of each full year for a period of 3 years after the date of issuance of the certificate herein, carrier shall file with this Commission's Bureau of Economics a "Performance Report" with respect to the operations conducted under the portions of the certificates issued herein; that this "Performance Report" shall, among other things, identify and describe the shipments handled under such certificate that moved between points in the authority granted herein. Such further terms, conditions, and limitations as the Commission in the future may find necessary to impose in order to insure that carrier's operations comport with the type of service the supporting shippers are shown to require on this record.

By the instant petition, petition seeks to modify the certificate by deleting the two conditions imposed on the authority.

MC 2900 Sub 378 (M1F) (Notice of Filing of Petition to Modify Certificate), filed June 20, 1980. Petitioner: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: John C. Bradley, Suite 1301, 1600 Wilson Bldg., Arlington, VA 22209. Petitioner holds a motor *common carrier* certificate in MC 2900 Sub 378 issued December 3, 1979, authorizing transportation, over regular routes, as pertinent, of *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 specified points in GA, SC, and NC, over specified routes, service in connection with the routes specified above (routes (1) through (24) in the certificate) is authorized at all points in GA, NC, and SC, as off-route points in connection with carrier's regular-route authority. **RESTRICTION:** The operations authorized herein above are restricted to the transportation of traffic serving (a) between points in NC, on the one hand, and, on the other, those points in that part of SC on and north of a line beginning at Charleston and extending along US Hwy 78 to junction US Hwy 178, then along US Hwy 178 to Anderson, and then along US Hwy 29 to the SC-GA State line, (b) from Charleston, SC to points in that part of SC as specified in (a) above, (c) between Wilmington, NC, on the one hand, and, on the other, points in NC, (d) between Columbia, SC, on the one hand, and, on the other, points in GA in connection with traffic moving from, to, or through Atlanta, GA, (e) between Charlotte, NC, on the one hand, and, on the other, points in GA in connection with traffic moving from, to, or through Atlanta, GA, (f) between Augusta and Savannah, GA, on the one hand, and, on the other, points in GA and SC, or (g) between Augusta and Savannah, GA, Richmond, VA and points in NC, on the one hand, and, on the other, points in Richland, Lexington, and Calhoun Counties, SC.

By the instant petition, petitioner seeks to delete the above restriction.

MC 134599 (Sub-163F) (notice of petition to modify permit), filed June 26, 1980. Petitioner: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 S. 14th St., P.O. Box 81849, Lincoln, NE 68501. Petitioner holds a

motor *contract carrier* Permit in MC 134599 (Sub-163F) issued June 26, 1979, authorizing transportation over irregular routes, of *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 Compton, CA, Herrin and Rock Island, IL, Eldora, IA, Springfield, MO, Alliance and McCook, NE, Dover, NJ, Kingstree, Walterboro, and Williston, SC, Dyersburg, TN, Olney, TX, Richmond, VA, and points in Haywood County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Dayco Corporation, of Dayton, OH. By the instant petition, petitioner seeks to add Welcome, NC to the above territorial description as an additional base point.

MC 147402 (Sub-5) (notice of filing of petition to modify), filed March 20, 1980. Petitioner: WACO DRIVERS SERVICE, INC., 138 Atando Ave., Charlotte, NC 28206. Representative: John P. Tucker, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. A decision of the Commission, Division 1, Acting as an Appellate Division, Commissioners, Clapp, Alexis, and Gilliam, decided September 24, 1980 and served October 3, 1980, finds that petitioner holds motor *contract carrier* authority in MC 147402 (to be issued under Sub-5), pursuant to MCFC 78180 decided December 14, 1979, and served February 29, 1980, authorizes transportation by motor vehicle, over irregular routes, transporting *such merchandise* as is dealt in by home products distributors, from the facilities of Amway Corporation in Gwinnett County, GA, to points in Kentucky, North Carolina, South Carolina, Virginia, West Virginia, and that portion of Tennessee located east of the western transversal of the Tennessee River and Kentucky Lake, under contract(s) with Amway Corporation. By the instant petition, petitioner seeks to modify the authority by showing the origin point as the facilities of Amway Corporation in Gwinnett County, GA, in lieu of Fulton County, GA.

Replications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before December 5, 1980. Such pleading

shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail in precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 61977 (Sub-14F) (republication), filed September 26, 1978, published in the **Federal Register** issue of December 14, 1978, and republished this issue. Applicant: ZERKLE TRUCKING CO., 2400 Eighth Avenue, Huntington, WV 25703. Representative: John M. Freidman, 2930 Putnam Avenue, Hurricane, WV 25526. A decision of the Commission, Division 2, acting as an Appellate Division, decided September 4, 1980 and finds that the present and future public convenience and necessity require operations by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting *glass containers and closures for glass containers*, (1) from Vienna, WV, to Huntington, WV, and (2) from Vienna and Huntington, WV, to points in Illinois, Indiana, Kentucky, Massachusetts, Maryland, New Jersey, New York, Pennsylvania and Rhode Island.

MC 114273 (Sub-590F) (republication), filed April 18, 1979, published in the **Federal Register** issue of August 9, 1979, and republished this issue. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). A decision of the Commission, *Review Board 2*, decided March 5, 1980, and served March 26, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *agricultural and industrial implements, and parts* for agricultural and industrial implements, from Grinnell, IA, to Chesapeake, VA, Louisville, KY, points in New York, Pennsylvania, Indiana, Ohio, Wisconsin, the Lower Peninsula of Michigan, and those in Illinois on and north of U.S. Hwy 36; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's

regulations. The purpose of this republication is to broaden the scope of authority.

MC 115826 (Sub-496F) (republication), filed June 14, 1979, published in the *Federal Register* issue of February 26, 1980, and republished this issue.

Applicant: W. J. DIGBY, INC., 8015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). A decision of the Commission, Review Board Number 3, Acting as an Appellate Division, decided September 2, 1980 and finds that the present and future public convenience and necessity require operations by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting *alcoholic liquors and wine*, in containers, (1) from New York, NY, and Linden, NJ, to Chicago, IL, Denver, CO, and points in Arizona, Minnesota, Iowa, and California, (2) from Plainfield, IL, to points in Colorado, Texas, California, Tennessee, Michigan, and Ohio, and (3) from Lawrenceville, NJ, to points in California, Oregon, and Washington, restricted in (1) (2), and (3) to the transportation of traffic originating at the named origins and destined to the indicated destinations.

MC 120456 (Sub-5F), (Republication), filed May 4, 1979, published in the FR issue of October 16, 1979, and republished this issue. Applicant: BOUMA CARTAGE CO. (a Corporation), 146 Pleasant Street SW., Grand Rapids, MI 49503. Representative: Carl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. A Decision of the Commission, Division 2, Acting as an Appellate Division, decided July 2, 1980 and finds that the present and future public convenience and necessity require operations by the applicant as a *common carrier*, by motor vehicle, over *irregular routes*, transporting (1) *furniture*, between Grand Rapids, MI, on the one hand, and, on the other, points in Michigan (except Grand Rapids), (2) *furniture*, between Detroit, MI, on the one hand, and, on the other, points in Michigan (except Detroit), and (3) *household goods, store fixtures, and office furniture*, between points in Kent, Ottawa, Allegan, Barry, and Ionia Counties, MI, on the one hand, and, on the other, points in Michigan.

Note.—The authority granted above may be tacked with the authority granted in No. MC-FC-78123 in order to enable applicant to provide a through service.

MC 141187 (Sub-10F), (Republication), filed January 10, 1980, published in the FR issue of April 1, 1980, and republished this issue. Applicant: BLUFF

CITY TRANSPORTATION, INC., P.O. Box 18391, Memphis, TN 38118. Representative: James N. Clay, III 2700 Sterick Bldg., Memphis, TN 38103. A Decision of the Commission, Division 2, Acting as an Appellate Division, decided October 1, 1980 and finds that the present and future public convenience and necessity require operations by the applicant as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting (1)(a) *plastic film, plastic bags, boneguard cloth and aluminum packaging clips*, and (b) *materials, equipment and supplies* used in their manufacture and distribution, between Iowa Park, TX, on the one hand, and on the other, points in the United States (except Alaska and Hawaii), under continuing contract(s) with Cryovac Division of W. R. Grace & Co., of Duncan, SC, (2) *chemicals, and materials, equipment and supplies* used in their manufacture and distribution (except in bulk), between the facilities of Texaco Chemical Co., at Austin, Port Neches and Youens, TX, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under continuing contract(s) with Texaco Chemical Co., of Bellaire, TX, and (3) *proprietary antifreeze preparation, and materials, equipment and supplies* used in its manufacture and distribution (except in bulk), between Houston, TX, Memphis, TN, and Wilmington, NC, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) under continuing contract(s) with Texaco Chemical Co., of Bellaire, TX.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from date of this *Federal Register* notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 30605 (Deviation No. 37), THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 E. Waterman, P.O. Box

56, Wichita, KS 67201, filed September 29, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dallas, TX over Interstate Hwy 20 to junction Interstate Hwy 10, then over Interstate Hwy 10 to El Paso, TX and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Dallas, TX over US Hwy 80 to junction US Hwy 377 near Ft. Worth, then over US Hwy 377 to junction US Hwy 67 near Stephenville, TX, then over US Hwy 67 to junction US Hwy 84 near Brownwood, TX, then over US Hwy 84 to Farwell, TX, then over US Hwy 60 to junction NM Hwy 6, then over NM Hwy 6 to Belen, NM, then over US Hwy 85 to Las Cruces, NM, then over US Hwy 80 to El Paso, TX and return over the same route.

Permanent Authority Decisions; Decision-Notice Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: June 27, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The

appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a)

(formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 120761 (Sub-64F) (Republication), filed June 3, 1980, previously noticed in the FR issue of July 31, 1980. Applicant: NEWMAN BROS. TRUCKING COMPANY, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting (1) *machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products; (2) *machinery, materials, equipment and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; and (3) *articles* which because of size and weight require the use of special equipment for the unloading, loading or transportation thereof, between points in KS, NM, OK and TX, on the one hand, and, on the other, points in AZ, AR, CA, ID, IL, KY, MO, MT, NV, OH, OR, UT, and WY.

Note.—The sole purpose of this application is to substitute single-line for jointline operations that have been conducted with F-B Truck Line Company, Salt Lake City, UT and Machinery Transports, Inc., East Peoria, IL. The purpose of this republication is to indicate the correct section of the FR and the correct preface.

Permanent Authority Notices

Substitution Applications: Single-Line Service for Existing Joint-Line Service

The following applications, filed on or after April 1, 1979, are governed by the

special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2). These proposals are published as "service sought", (as proposed to decision-notice), because in each case it appears questionable as to whether all or part of the authority sought should be issued, weighing applicant's evidence under 49 CFR 1062.2. (For example, questions may be raised relating to applicant's contentions concerning why the involved joint-line service has been cancelled or is in a state of deterioration which warrant a decision on the merits, regardless of whether the application is opposed.)

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter

which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

MC 113908 (Sub-507F), filed June 2, 1980, previously noticed in FR issue of September 11, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Rd., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, from points in IL to points in AR, AZ, CA, CO, MO, MT, NM, NV, OK, OR, TX, and UT. The sole purpose of this application is to substitute single line for joint line operations.

Note.—This republication adds NM to the destination territory which was inadvertently omitted from the previous publication.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-34444 Filed 11-4-80; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-72]

Certain Turning Machines and Components Thereof; Notice of Commission Request for Comments Concerning Settlement Agreement

AGENCY: United States International Trade Commission.

ACTION: Request for public comment on proposed settlement agreement.

SUMMARY: This settlement agreement would result in termination of this investigation. This notice requests public comment on the agreement within thirty (30) days.

DATES: Comments will be considered if received within thirty (30) days of this notice. Comments should conform with § 201.8 of the Commission's rules of practice and procedure (19 C.F.R. 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436.

SUPPLEMENTAL INFORMATION: In connection with the Commission's investigation, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) of alleged unfair methods of competition and unfair acts in the importation or sale of certain turning machines and components thereof in the United States, respondents Yamazaki Machinery Corporation and Yamazaki Machinery

Works Ltd. ("Yamazaki") and complainant Warner & Swasey Company jointly requested the Commission on October 22, 1980, to terminate the investigation on the basis of a license agreement between Yamazaki and Warner & Swasey. The Commission investigative attorney joined in the request to terminate. The license agreement between Warner & Swasey and Yamazaki contains confidential business information which may not be publicly disclosed. However, the essence of the agreement, which is described in the motion to terminate, is that Yamazaki may continue to service turning machines already in the United States and to import a limited additional number of machines; in return, Warner & Swasey is to receive a specified sum of money from Yamazaki. Copies of the motion to terminate are available for inspection by interested persons in the Office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

WRITTEN COMMENTS REQUESTED: In light of the Commission's duty to consider the public interest, the Commission requests written comments from interested persons and agencies concerning the effect of the termination of this investigation 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. Notice of this investigation was published in the *Federal Register* of October 24, 1979 (44 FR 61271).

ADDITIONAL INFORMATION: The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Secretary 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 Office of the Secretary.

FOR FURTHER INFORMATION CONTACT: Scott Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436; Telephone 202-523-0480.

Issued: November 3, 1980.

By order of the Commission.
Kenneth R. Mason,
Secretary.

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

National Minority Advisory Council on Criminal Justice; Meeting

This is to provide notice of an Executive Meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ), OJARS.

The National Minority Advisory Council on Criminal Justice will hold its Executive Committee Meeting on Saturday, November 15 in the John Adams Room of the Atlanta Hilton Hotel, located at Cortland and Harris Streets, Atlanta, Georgia. The meeting is scheduled to run from 9:00 a.m. to 5:00 p.m.

Discussion at the meeting will focus on: the National Results Conference Wrap-up; completion of report on *The Inequality of Justice: A Report on Crime and the Administration of Justice in the Minority Community*; and a discussion on the 1981 Workplan and Budget.

Anyone wishing additional information should contact either Ms. Peggy Triplett, LEAA-NMACCJ Coordinator at 633 Indiana Avenue, Northwest, Washington, D.C. 20531 (202) 724-5933; or Mr. Alan G. Boyd, NMACCJ Staff Director, 1990 M Street, Northwest, Suite 200, Washington, D.C. 20036 (202) 862-9327.

Peggy E. Triplett,
Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 80-34466 Filed 11-4-80; 8:45 am]
BILLING CODE 4410-18-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 80-725]

NASA Advisory Council, Aeronautics Advisory Committee (AAC); Meeting

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces the following meeting:

Name of Committee: NASA Advisory Council, Aeronautics Advisory Committee, Informal Subcommittee on Aerodynamics.
Date and time: November 24, 1980, 9:00 a.m.-4:30 p.m., November 25, 1980, 9:00 a.m.-4:30 p.m.

Address: Ames Research Center, Committee Room, Building 200, Moffett Field, California.

Type of Meeting: Open.

Agenda

November 24, 1980

9:00 a.m. Introduction;
9:15 a.m. Status of AAC Informal Subcommittees;
9:30 a.m. Low Speed Aerodynamics;
1:00 p.m. Aero Propulsion and Vertical/Short Takeoff and Landing Research;
2:00 p.m. Transonic Aerodynamics;
3:00 p.m. Turbulence and Separated Flow Dynamics;
4:30 p.m. Adjourn.

November 25, 1980

8:30 a.m. Overview of Computational Fluid Dynamics;
9:30 a.m. Applied Computational Aerodynamics;
10:00 a.m. The Numerical Aerodynamic Simulator;
11:00 a.m. Experimental Fluid Dynamics;
1:00 p.m. Committee Discussion;
4:30 p.m. Adjourn.

FOR FURTHER INFORMATION CONTACT:

Mr. Clinton E. Brown, Executive Secretary, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-3280).

SUPPLEMENTARY INFORMATION: The Informal Subcommittee on Aerodynamics of the NASA Advisory Council, Aeronautics Advisory Committee, was established to assist the NASA in identifying specific needs and objectives for improving aircraft aerodynamics and to advise the NASA on the appropriateness and adequacy of its current and planned research and technology programs in this area. The Chairperson is Dr. Joseph J. Cornish. There are currently nine members.

The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Subcommittee members and participants).

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

October 30, 1980.

[FR Doc. 80-34419 Filed 11-4-80; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Music Panel (Centers Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Centers Section) to the National Council on the Arts will be held on November 21, 1980 from 9:00 a.m.—5:30

p.m. and November 22, 1980, from 9:00 a.m.—1:00 p.m., in room 1422 of the Columbia Plaza Office Complex, 2401 E. St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on November 21, 1980, from 9:00 a.m.—10:30 a.m. to discuss policy.

The remaining sessions of this meeting on November 21, 1980, from 10:30 a.m.—5:30 p.m. and November 22, 1980 from 9:00 a.m.—1:00 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.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

October 30, 1980.

[FR Doc. 80-34483 Filed 11-4-80; 8:45 am]

BILLING CODE 7537-01-M

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held on Friday, November 21, 1980 from 9:00 a.m.—5:30 p.m.; and Saturday, November 22, 1980 from 9:00 a.m.—5:30 p.m. at the Four Seasons Hotel, 2800 Pennsylvania Avenue, N.W., Washington, D.C.

A portion of this meeting will be open to the public on Friday, November 21, 1980 from 9:00 a.m.—5:30 p.m. and Saturday, November 22, 1980 from 9:00 a.m.—12:00 noon. Topics for discussion will be Program Review and Guidelines for Music, Media Arts, Visual Arts and Expansion Arts and general policy discussions.

The remaining sessions of this meeting on Saturday, November 22, 1980 from 12:00 noon—5:30 p.m. are for the purpose of Council 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.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

October 31, 1980.

[FR Doc. 80-34476 Filed 11-4-80; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts (Crafts Exhibition); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts (crafts exhibition) to the National Council on the Arts will be held on November 24-25, 1980, in room 1426, from 9:00 a.m.—5:30 p.m. in the Columbia Plaza Office Complex, 2401 E. St., N.W., Washington, D.C.

This meeting is 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.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

October 28, 1980.

[FR Doc. 80-34477 Filed 11-04-80; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION**Physics Advisory Committee,
Subcommittee for the Review of the
NSF Theoretical Physics Program;
Meeting**

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics;
Subcommittee for the Review of the NSF
Theoretical Physics Program.
Date and Time: November 20-21; 9:00 a.m. to
5:00 p.m. each day.
Place: Room 341, National Science
Foundation, 1800 G Street NW.,
Washington, D.C. 20550.
Type of Meeting: Closed.

Contact Person: Dr. Laura P. Bautz, Deputy
Director, Division of Physics, Room 341,
National Science Foundation, Washington,
D.C. 20550, Telephone (202) 357-7611.

Purpose of Subcommittee: To provide
oversight concerning NSF support for
research in theoretical physics.

Agenda: To review NSF Theoretical Physics
Program documentation as part of the
program oversight function.

Reason for Closing: The meeting will deal
with a review of grants and declinations in
which the Subcommittee will review
materials containing the names of
applicant institutions and principal
investigators and privileged information
from the files pertaining to the proposals.
The meeting will also include a review of
the peer review documentation pertaining
to applicants. These matters are within
exemptions (4) and (6) of 5 U.S.C. 552b(c),
Government in the Sunshine Act.

Authority to Close Meeting: This
determination was made by the Committee
Management Officer pursuant to provisions
of Section 10(d) of Pub. L. 92-463. The
Committee Management Officer was
delegated the authority to make such
determinations by the Director, NSF, on
July 6, 1979.

Reason for Late Notice: Because of schedules
of Subcommittee members, the date of this
meeting was changed from a tentatively
scheduled later date.

M. Rebecca Winkler,
Committee Management Coordinator.

October 31, 1980.
[FR Doc. 80-34462 Filed 11-4-80; 8:45 am]
BILLING CODE 7555-01-M

**OFFICE OF PERSONNEL
MANAGEMENT****The President's Management
Improvement Council; Meeting**

AGENCY: The President's Management
Improvement Council.

ACTION: Notice of Meeting.

SUMMARY: The purpose of this notice is
to announce a meeting of the President's

Management Improvement Council, as
required by the Federal Advisory
Committee Act.

DATE, TIME, AND PLACE: November 19,
1980, 11:00 a.m., 6th Floor Board Room,
Federal Home Loan Bank Board, 17th
and G. Streets, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: This
meeting will be devoted to a review of
Council projects, and to a discussion of
the issuance of a Council report and of
the continuation of the Council.

ADDRESS: Members of the public are
invited to submit material in writing to
the Executive Director of the Council
concerning specific management
improvement matters felt to be
deserving of the Council's attention.
Material should be addressed to:
Executive Director, the President's
Management Improvement Council,
Room 5315, 1900 E Street, N.W.,
Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:
Jon Bellis, 202-632-6104.

The President's Management Improvement
Council.

Charles F. Bingman,
Executive Director.

October 30, 1980.
[FR Doc. 80-34486 Filed 11-4-80; 8:45 am]
BILLING CODE 6325-01-M

**SECURITIES AND EXCHANGE
COMMISSION**

[Rel. No. 11419; 811-2697]

**Girard Federal Tax Exempt Fund; Filing
of Application Pursuant To Section 8(f)
of the Investment Company Act of
1940 for an Order Declaring That
Applicant Has Ceased to be an
Investment Company**

October 30, 1980.

Notice is hereby given that Girard
Federal Tax Exempt Fund ("Applicant",
10960 Wilshire Boulevard Suite 336 Los
Angeles, CA 90024 registered under the
Investment Company Act of 1940
("Act") as a diversified, open-end,
management investment company filed
an application on August 25, 1980,
pursuant to Section 8(f) of the Act, for
an order of the Commission declaring
that Applicant has ceased to be an
investment company as defined in the
Act. 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.

Applicant, a California corporation,
registered under the Act on October 26,
1976. On or about the same date it filed
a registration statement on Form S-5
under the Securities Act of 1933 covering

100,000 shares of its common stock in
connection with a proposed public
offering of its shares. On August 1, 1977,
Applicant filed a request to withdraw
this registration statement, and on
September 28, 1977, the Commission
issued an order permitting Applicant to
withdraw its registration statement
pursuant to Rule 477 under the 1933 Act,
17 CFR 230.477. Thus, Applicant has
never engaged in a public offering of
shares of its common stock.

Applicant states that it has no
securityholders. The application states
that Applicant does not have any assets
or liabilities currently outstanding, and
that it is not a party to any litigation or
administrative proceeding. The
application further states that Applicant
is presently an inactive corporation
under California law, and is not engaged
in and does not propose to engage in
any business activities other than those
necessary for the winding up of its
affairs. Finally, Applicant states that it
has not within the last eighteen months
transferred any of its assets to a
separate trust the beneficiaries of which
were or are securityholders of
Applicant.

Section 8(f) of the Act provides, in
pertinent part, that whenever the
Commission, on its own motion or upon
application, finds that a registered
investment company has ceased to be
an investment company, it shall so
declare by order, and upon the
effectiveness of such order the
registration of such company shall cease
to be in effect.

Notice is further given that any
interested person may, not later than
November 24, 1980, at 5:30 p.m., submit
to the Commission in writing, a request
for a hearing on the application
accompanied by a statement as to the
nature of his interest, the reasons 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 at the address
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 0-5 of the Rules and
Regulations promulgated under the Act,
an order disposing of the application
herein 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. 80-34471 Filed 11-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11418; 811-2702]

Girard High Yield Corporate Fund; Filing of Application Pursuant to Section 8(f) of the Investment Company Act of 1940 for an Order Declaring That Applicant Has Ceased To Be an Investment Company

October 30, 1980.

Notice is hereby given that Girard High Yield Corporate Fund ("Applicant"), 10960 Wilshire Boulevard, Suite 336, Los Angeles, California 90024, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company filed an application on August 25, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. 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.

Applicant, a California corporation, registered under the Act on November 10, 1976. On or about that same date it filed a registration statement (File No. 2-57616) on Form S-5 under the Securities Act of 1933 covering 100,000 shares of its common stock in connection with a proposed public offering of its shares. On August 1, 1977, Applicant filed a request to withdraw this registration statement, and on September 28, 1977, the Commission issued an order permitting Applicant to withdraw its registration statement pursuant to Rule 477 under the 1933 Act, 17 CFR 230.477. Thus, Applicant has never engaged in a public offering of shares of its common stock.

Applicant states that it has no securityholders. The application states that Applicant does not have any assets or liabilities currently outstanding, and that it is not a party to any litigation or administrative proceeding. The

application further states that Applicant is presently an inactive corporation under California law, and is not engaged in and does not propose to engage in any business activities other than these necessary for the winding up of its affairs. Finally, Applicant states that it has not within the last eighteen months transferred any of its assets to a separate trust the beneficiaries of which were or are securityholders of Applicant.

Section 8(f) of the Act provides in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 24, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons 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 at the address 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 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein 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. 80-34470 Filed 11-4-80; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 30, 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:

Amstar Corp., Common Stock, \$1 Par Value (File No. 7-5769).

Federal Express Corp., Common Stock, \$10 Par Value (File No. 7-5770).

Management Assistance, Inc., Common Stock, \$40 Par Value (File No. 7-5774).

These securities are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 21, 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. 80-34468 Filed 11-4-80; 8:45 am]

BILLING CODE 8010-01-M

Senior Executive Service Performance Review Board; List of Members; Schedule of Bonus Awards

AGENCY: Securities and Exchange Commission.

ACTION: Listing of Personnel Serving as Members of this Agency's Senior Executive Service Performance Review Board and Announcement of Schedule for Awarding Bonuses.

SUMMARY: Pub. L. 95-454 dated October 13, 1978 (Civil Service Reform Act of 1978) requires that Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review

Board (PRB). This notice announces the PRB membership and the schedule for awarding SES bonuses in the Commission. The Securities and Exchange Commission has established a Performance Review Board consisting of:

1. Benjamin Milk, Executive Director, PRB Chairman;
2. Ralph Ferrara, General Counsel;
3. Daniel Goelzer, Executive Assistant to the Chairman;
4. Stephen L. Hammerman, Administrator, New York Regional Office;
5. Lee B. Spencer, Deputy Director, Division of Corporation Finance.

The Securities and Exchange Commission plans to award bonuses to Senior Executive Service members on or about December 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Craig Kellermann, Office of Personnel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2512).
George A. Fitzsimmons,
Secretary.

[FR Doc. 80-34469 Filed 11-04-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR-123-78]

Study relating to Automatic Extension of Certain Election Periods; Invitation for Public Comments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Invitation for Public Comments.

SUMMARY: This document provides background information with respect to an Internal Revenue Service study relating to automatic extensions of the time periods for making certain elections relating to income taxes. The Service requests comments on the election periods for which an automatic extension would be appropriate and the limitations and safeguards that should be included in the automatic extension procedure.

DATE: Comments should be delivered or mailed by March 31, 1981.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-123-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Paul A. Francis (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

Under existing procedures contained in § 1.9100-1 of the Income Tax Regulations (26 CFR Part 1) and Rev. Proc. 79-63, 1979-2 C.B. 578, the Commissioner of Internal Revenue may grant a reasonable extension of time to taxpayers to make an election or file an application for relief with respect to income taxes. This authority, which requires a showing of good cause by the taxpayer, is limited to those situations where the time for the election or application is fixed by regulation.

The Internal Revenue Service is reviewing election periods provided by regulation to determine whether there are situations in which extensions may be allowed automatically, without a showing of good cause and without prior approval of the Commissioner.

The Service believes that automatic extensions would be appropriate in those situations where an extension would be consistent with the legislative purpose of the underlying statute and would neither jeopardize the revenue nor seriously interfere with the orderly administration of the tax laws.

This document contains a list of election periods identified by the Service as now subject of § 1.9100-1; the list also notes Code or regulatory provisions with respect to the time of election or revocability. The Service welcomes comments concerning any additions, deletions or corrections to the list.

The Service, by this notice, is also soliciting comments as to which election periods should be subject to an automatic extension procedure as well as suggestions as to the form and conditions for an automatic extension procedure.

Such a procedure presents a number of potential problems that should be addressed. The following discussion is intended to identify some of these problems and suggest possible solutions. The Service welcomes comments on these or any other aspects of an automatic extension procedure.

1. *Extension of Assessment Period.* Unless the automatic extension procedure contained some safeguard, taxpayers could intentionally defer elections until shortly before the assessment period expires in order to reduce or eliminate the possibility of audit.

One solution to this problem would be to require taxpayers to extend the assessment period for any taxable year for which, at the time of the election or revocation, the assessment period would expire within two years. Any such extension would apply generally to the

taxable year; it would not be limited to items directly affected by the election or revocation. This condition would assure that the Service would have an appropriate opportunity to make assessments and that elections or revocations late in the assessment period would generally be limited to important issues.

2. *Effect of Audit.* An election or revocation of an election during an audit would in many cases interfere with the efficient conduct of an audit and result in added expenditures of audit resources. In addition, permitting changes upon audit might encourage some taxpayers to take inappropriate positions on their returns. See Rev. Rul. 79-414, 1979-2 C.B. 21, in which the Service denied a request for an extension of time to permit the election to pass through the investment credit upon disallowance of the credit to the taxpayer. Because of the difficulty in identifying elections or revocations that are appropriate notwithstanding the existence of an audit, the Service is inclined to require taxpayers under audit for a taxable year affected by an election to request relief in accordance with Rev. Proc. 79-63.

3. *Elections or Revocations by Corporations.* Corporate elections frequently affect earnings and profits which in turn may affect the character of distributions to shareholders or the application of rules relating to redemptions, liquidations, or reorganizations. Because the Service might be unable to coordinate all shareholder returns, there is potential for adverse revenue effects when a corporation makes a late election or a late revocation of an election. Thus, it may be necessary to require as a condition to any corporate election or revocation under the automatic extension procedure that the taxable years of all shareholders affected by the election or revocation are open and that these shareholders consent to the extension of the assessment period if it would otherwise be less than two years. Rules applicable to corporations would also appear appropriate for trusts and estates because of the effect of elections by such entities on their beneficiaries.

4. *Elections by Conduit Entities.* Elections by conduit entities such as partnerships or Subchapter S corporations present problems similar to those raised by elections by corporations and thus may require similar conditions. In addition, conduit entities often involve complex arrangements such as tiered partnerships where the task of coordinating returns under an automatic

extension procedure would be burdensome.

It may therefore be necessary to limit the automatic extension procedure to those conduit entities where all beneficial owners for all taxable years affected by the action are individuals or corporations (other than Subchapter S corporations). The Service believes that it may be more appropriate for entities

that are part of complex arrangements to apply for extensions in accordance with Rev. Proc. 79-63.

5.Election or Revocation Affecting Basis. Elections affecting the basis of property transferred other than in a fully taxable transaction present a special problem. In such a case, the transferee, with a carryover basis, may not make an adjustment to the basis in a manner

consistent with the election or revocation. This problem could be prevented by permitting elections or revocations affecting the basis of property under the automatic extension procedure only if the taxpayer still holds the property or has disposed of it in a fully taxable transaction.

Jerome Kurtz,
Commissioner of Internal Revenue.

Time Limitations Subject to § 1.9100-1 of the Income Tax Regulations (26 CFR Part 1)

Regulation section	Brief description of election, application, etc.	Current limitation for electing, applying, etc.
1.46-1(f)	Apportionment of \$25,000 limitation among members of controlled group.	Due date (with extension) of return for member whose year ends first (regulation: irrevocable).
1.46-8(c)(2)	Additional 1% investment credit for TRASOP	With timely return for first applicable year (regulation: revocable within same period).
1.47-4(b)	Agreement by corporation newly electing subch. S status and shareholders to be liable for ITC recapture.	Due date (with extension) of corporate return for year preceding first year as subch. S (District Director may extend).
1.48-4 (f) and (g)	To treat lessee as having acquired leased sec. 38 property (statement filed by lessor with lessee).	Due date (with extension) of lessee's return for year of acquisition (regulation: irrevocable).
1.48-8(c)	To apply 90% rule for investment credit for motion picture films.	With original (or timely amended) return for first year claimed.
1.72-4(d)(3)	To redetermine amounts to be received as annuity income.	With return for first year affected.
1.77-1	Application to change method of accounting after election to treat commodity credit loans as income.	Within 90 days after beginning of year for which change is desired.
1.83-2(f)	Request to revoke election to include property in income in year of transfer.	60 days after discovery of mistake of fact.
1.103-10(b)	To use \$10,000,000 limit for exempt small issue of IDB's.	Prior to issuance of IDB's.
1.108(a)-2	Consent to basis adjustments under sec. 1017 in connection with discharge of indebtedness.	With return for year of discharge.
1.165-11(e)	To deduct disaster losses in year preceding disaster.	Before later of: (1) due date (without extension) of return for disaster year; (2) due date (with extension) of return for preceding year (regulation: revocation within 90 days).
1.167(a)-11(f)	To use class lives system in determining depreciation (and other related elections).	With original (or timely amended) return for year in which property first placed in service (regulation revocable within same period).
1.167(a)-12	To apply class lives system to pre-1971 assets.	With original (or timely amended) return (regulation: revocation—change in method of accounting).
1.167(k)-4	To amortize certain rehabilitation expenditures over 60 months.	With original (or timely amended) return for year property placed in service (regulation: revocable prospectively only).
1.169-4	To amortize pollution control facility over 60 months.	With return for year in which amortization period begins (Code: revocable prospectively only).
1.170A-8(d)(2)(iii)	To reduce all contributions of capital gain property by 40% of unrealized gain.	With return.
1.171-3	To amortize bond premium.	On return for first year to which election applies (Code: revocable only with consent).
1.172-11(c)	To use 10-year carryover period for NOL attributable to foreign expropriation loss.	With timely return for year of foreign expropriation loss (regulation: revocable within same period).
1.173-1(c)	To capitalize circulation expenditures	With return for first year to which election applies (Code: revocation only with consent).
1.179-4(b)	Request to revoke election of additional first-year depreciation.	6 months after due date (without extension) of return for year for which allowance claimed (Code: revocable only with consent; regulation: request within 6 months after due date (without extension) of return for year of allowance).
1.185-3	To amortize basis of railroad grading and tunnel bores.	With original (or timely amended) return for first year to which election applies (Code: revocable only with consent; regulation: request within 90 days prior to due date (without extension) of return for year to be covered).
1.188-1(b)	To amortize expenditures for child-care facilities	With original (or timely amended) return for first year of amortization (regulation: irrevocable).
1.190-3	To deduct expenditures for removal of architectural and transportation barriers.	Due date (with extension) of return for year to which election applies (regulation: irrevocable after due date).
1.191-3(a)	To amortize rehabilitation expenditures for certain historic structures.	With return for year in which amortization period begins (Code: terminable prospectively).
1.217-2(d)(2)	To deduct moving expenses before completion of minimum work period at new job.	With return for year in which moving expenses incurred.
1.243-4(c)	To take 100% dividends-received deduction for dividends from affiliates.	One year before end of assessment period for affiliates (regulation: termination by group—one year before end of assessment period; termination by new affiliate—with return of affiliate for year including last day of parent's year).
1.263(e)-1	To deduct cost of rehabilitation of railroad rolling stock.	With timely return.
1.266-1(c)	To capitalize certain taxes and carrying charges	With original return.
1.305-3(d)	To defer adjustment in conversion ratio of securities after certain distributions.	With return for year in which distribution occurs.
1.316-1(b)(5)	To designate certain PHC liquidating distributions as dividends.	On return for year in respect of which distribution is made.
1.381(b)-1(b)	To use earlier date as date of distribution or transfer in reorganization.	With timely return for year including date of transfer.
1.381(c)(4)-1(d)	Application for determination as to method of accounting for § 381 transfer.	90 days after § 381 transfer.
1.381(c)(5)-1(d)	Application for determination as to method of accounting for § 381 transfer.	90 days after § 381 transfer.
1.401(b)-1(d)	Filing dates for ERISA opinion and determination letters.	Various dates prescribed for each type of plan.

Time Limitations Subject to § 1.9100-1 of the Income Tax Regulations (26 CFR Part 1)—Continued

Regulation section	Brief description of election, application, etc.	Current limitation for electing, applying, etc.
1.410(a)-2(d)	To accelerate effective dates of certain ERISA provisions.	With return for first plan year affected or request for determination letter (ERISA: irrevocable).
1.410(d)-1	Election by church to have ordinary qualification standards apply.	With return for first plan year affected or request for determination letter (Code: irrevocable).
1.441-2(c) (1) and (2)	To adopt, or change to or from, 52-53 week year.	With return for first year to which election applies.
1.442-1(b)	Application to change annual accounting period.	15th day of second month after end of short period.
1.446-1(e)(3)(i)	Application to change method of accounting.	180 days after start of year for which change is sought.
1.451-6(b)(1)	To include crop insurance proceeds in income for year following crop destruction.	Refund period for year of destruction (regulation: revocable if District Director consents).
1.451-7 (g) and (h)	To defer for one year gain on sale of livestock due to drought.	Due date (with extension) of return for year of destruction (regulation: revocable with consent).
1.453-8(a)(1)	To adopt installment method (for dealers in personal property).	With timely return (Code: revocable within three years after due date of return for year of change).
1.453-8(b)	To adopt installment method (for sales of realty or casual sales of personal property).	With return.
1.455-6(b)	Request to defer inclusion of prepaid subscription income.	90 days after start of first year to which election applies (Code: revocation=change in method of accounting).
1.456-6(b)	Request to defer inclusion in income of prepaid dues from members.	90 days after start of first year to which election applies (Code: revocation=change in method of accounting).
1.461-1(c)(3)(ii)	Request to accrue real property taxes ratably.	90 days after start of first year to which election applies (regulation: revocation=change in method of accounting).
1.472-3	To use LIFO inventory method.	With return for first year in which method is used (§ 1.472-5: revocation=change in method of accounting).
1.482-1(d)(6)	To defer reporting of income in certain blocked currency cases.	Various limits related to audit or settlement.
1.503(c)-1(a)	Application to resume exempt status after its loss because of prohibited transactions.	Year preceding year in which exemption is to resume.
1.508-1(a)(2)	Notification of application for exemption under section 501(c)(3).	15 months from end of month of organization.
1.512(a)-4(b)(3)	To treat certain income set aside in one year as having been set aside in preceding year.	Due date (with extension) of return for year to which set aside is attributed.
1.514(b)-1(d)(1)(iii)	Request for ruling to treat certain land as other than debt-financed property.	90 days before end of fifth year after acquisition.
1.528-8	To be treated as a homeowner's association (annual election).	Due date (with extension) of return for year covered (regulation: revocable only with consent).
1.545-3(e)	Election to treat as nondeductible amounts otherwise deductible under § 545(c)(1) (PHC).	(Regulation: irrevocable.)
1.556-2(a)	To deduct taxes accrued rather than taxes paid (foreign PHC determination).	With return (Code: irrevocable).
1.612-3(b)(3)	To select treatment of advanced royalties on mineral property.	With return for first year in which advanced royalties paid.
1.612-4 (d) and (e)	To charge intangible drilling and development costs to expense.	With return for first year in which costs paid (regulation: irrevocable).
1.613A-5	To take percentage depletion with respect to certain natural gas.	Refund period (regulation revocable in same period).
1.616-2	To deduct mineral development expenditures ratably.	Due date (with extension) of return (Code: irrevocable annual election).
1.642(c)-1(b)(2)	To treat charitable contributions paid in one year as paid in preceding year.	Due date (with extension) of return for year in which charitable contribution made (regulation: revocable within same period).
1.663(b)-2(a)	To treat distribution from a trust or estate during first 65 days of year as made in preceding year.	Due date (with extension) of return for year in which distribution made (regulation: revocation within same period).
1.706-1(b)(4)	To change partnership year.	15th day of second calendar month following short period.
1.706-1(b)(4)	To adopt special partnership year.	Last day of first month after close of year to be adopted.
1.732-1(d)(2)	To adjust partnership basis in distributed property (election by transferee partner).	With return for first year for which adjustment has tax effect.
1.736-1(b)(6)	To report gain on partnership property in installments (election by retiring partner).	With return for first year in which partner receives payment.
1.754-1(b) and (c)	To make optional adjustments to basis of partnership property (election by partnership).	With timely return for year in which first affected transfer occurs (regulation: request to revoke to District Director within 30 days after close of year to be affected).
1.755-1(a)	To make disproportionate adjustments to partnership bases in various assets.	30 days after end of year in which proposed adjustment to be made.
1.761-2(b)	To be excluded from all provisions of subchapter K.	Return within period within which first partnership return would be due (regulation: request to revoke within 30 days after beginning of year to be affected).
1.761-2(c)	To be excluded from part of subchapter K.	90 days after beginning of first year for which partial exclusion requested.
1.818-4(e)	To revalue reserves originally computed on a preliminary term basis.	With timely return for first year to which election applies (regulation: revocable with consent).
1.819-2(c)(4)	Selection of percentage to be used in determining distribution to shareholders.	With timely return (regulation: irrevocable annual election).
1.820-2(b)	To treat modified coinsurance contract as a policy re-insured under a conventional contract.	With timely return for first year to which treatment applies (Code: revocable with consent).
1.821-4(f)(3)	Selection of manner of taxation by mutual insurance companies.	With timely return for first year to which election applies (Code: revocable with consent).
1.824-1(a)(3)	Selection of geographical area for purposes of determining concentrated windstorm, etc., premium percentage.	With return for year to which selection is to apply (regulation: selection may be changed within same period).
1.826-1(c)	Election by reciprocal underwriter to limit certain deductions in order to obtain credit.	With timely return for first year to which election applies (Code: revocable with consent).
1.851-2(a)	Election to be RIC.	(Regulation: irrevocable.)
1.853-4	To flow foreign taxes paid by RIC through to shareholders.	With timely return (regulation: irrevocable).
1.861-9	To treat income from certain aircraft and vessels leased to U.S. persons as income from sources within U.S.	Refund period (revocable within same period).
1.871-10 and 1.882-2	Initial election to treat income from U.S. real property as connected with U.S. business. Request to revoke after close of refund period for first year or to make new election within 5 years of revocation.	Refund period for first year (regulation: revocable within same period without consent). Regulation: 75 days after end of first year for which change is sought.

Time Limitations Subject to § 1.9100-1 of the Income Tax Regulations (26 CFR Part 1)—Continued

Regulation section	Brief description of election, application, etc.	Current limitation for electing, applying, etc.
1.902-1(g)	To determine earnings and profits of CFC under § 1.964-1 rules (by domestic shareholder).	180 days after CFC's year.
1.936-1	To take credit for tax attributable to income from a trade or business in a possession.	Due date (with extension) of return for first year to be covered (Code: revocable during first 10 years only with consent).
1.955A-4	To defer date for determining qualified investment in foreign base company shipping (by U.S. shareholder).	Without consent:—with return for year corresponding to CFC's first year in which conditions satisfied.
	Application for consent to later election or to revocation.	Regulation: before close of first CFC year for which desired.
1.962-2	To be subject to tax at corporate rates on imputed subpart F income (by individual).	With return (Code: revocable with consent).
1.964-1	Adoption of method of accounting, etc., for CFC.	180 days after end of CFC year (regulation: certain elections provided under this section are irrevocable).
1.970-2	Method for determining increase or decrease in export trade assets (by U.S. shareholder).	Without consent:—with return for year corresponding to first CFC year in which conditions satisfied.
	Application for consent to later election or to revocation.	Regulation: close of CFC year for which sought.
1.992-2(a)(2)	To be treated as DISC.	If corporation's first year, within first 90 days; otherwise, prior to beginning of year to which election applies (Code: revocable after first year).
1.995-5(a)(5)	To take into account certain foreign investment amounts attributable to producer's loans.	With first return of DISC.
1.995-5(g)(2)	To make certain computations as though all DISC's in group used the same tax year.	First return of electing DISC. CFR Part 1)
1.1012-1(e)	To use "average basis" for mutual fund stock.	With original (or timely amended) return for first year to which election applies (regulation: revocable with consent).
1.1033(a)-2(c)(2)	Not to recognize gain from involuntary conversion.	Refund period.
1.1033(a)-2(c)(3)	To apply for extension for replacing converted property.	Within two-year replacement period.
1.1034-1(h)	To have § 1034 apply to certain involuntary conversions of residence.	With return for year in which disposition occurs (regulation: irrevocable).
1.1039-1(b)(4)	Not to recognize gain on rollover of qualified low-income housing project.	Refund period.
1.1039-1(c)(4)	To extend reinvestment period for rollover treatment.	Before expiration of reinvestment period.
1.1081-4(g)	Consent to adjust basis of other property after transfer under order from SEC.	With return for year in which transfer occurs.
1.1247-2(b)	To treat distribution made within 2 months, 15 days after close of year as distribution made during such year.	(Regulation: irrevocable after time for filing return.)
1.1247-4(d)	To flow foreign taxes paid by foreign investment company through to shareholders.	Due date for information return (regulation: irrevocable).
1.1375-4(c)	To treat certain distributions as distributions out of accumulated earnings and profits.	With timely return.
1.1402(a)-16	To compute self-employment income from agriculture under optional method.	Any time within period of assessment (regulation: revocation within same period).
1.1502-13(c)(3)	Not to defer gain or loss on intercompany transactions.	Due date (without extension) of consolidated return (regulation: revocation with consent).
1.1502-33(d)	To allocate tax liability.	Due date of consolidated return for first year to which election to apply (regulation: irrevocable unless Commissioner authorizes change prior to due date of return for year in which change to be effective).
1.1502-75(c)	To request permission to discontinue filing consolidated returns (by common parent).	90 days before due date (with extension) of consolidated return.
1.1502-76(a)	To request consent for subsidiary to use 52-53 week year.	30 days before due date (without extension) of consolidated return.
1.1563-3(d)	To determine controlled group of which corporation is member.	Due date (with extension) for return (regulation: irrevocable until change in circumstances requires redetermination).
1.6013-6(a)(4)	To treat nonresident alien spouse as resident alien.	Refund period (code prescribes rules for termination).
1.6014-2(b)	To have IRS compute tax liability.	Due date (without extension) of return.
1.6161-1(c)	Application for extension of time for paying tax.	Due date for payment.
5a.612-1	To charge intangible drilling and development costs for geothermal wells to expense.	Refund period (regulation: revocable within same period).
5b.911-6	Not to exclude earned income from sources without U.S.	Refund period (regulation: revocable within same period).
6.3 (Code sec. 6158 and 1103)	To make installment payments of Federal income tax attributable to sale of property (by qualified bank holding corporation).	With return for year of sale.
7.0(b)(1) (Code sec. 167(o))	To compute depreciation deduction attributable to rehabilitated historic property.	Due date (with extension) of return for first year to which election applies (temp. regulation: irrevocable except as provided in final regulation).
7.0(b)(1) (Code sec. 402(e))	To treat pre-1974 participation in pension plan as post-1973 participation.	Due date (with extension) of return for first year to which election applies (temporary regulation: irrevocable except as provided in final regulation).
7.0(b)(2) (Code sec. 185(d))	To amortize pre-1969 railroad grading and tunnel bores.	With timely return for first year to which election applies (temporary regulation: irrevocable except as provided in final regulation).
7.0(b)(2) (Code secs. 1491 and 1057)	To treat transfer to foreign corporation, etc., as taxable exchange.	With timely return for year of transfer (temporary regulation: irrevocable except as provided in final regulation).
7.0(c)(1)(ii) (Code sec. 162)	To treat residence in legislative district as tax home (by state legislators).	Refund period (temporary regulation: irrevocable except as provided in final regulation).
7.0(c)(2) (Code sec. 37(e)(2))	To compute credit for elderly under old rules for retirement income credit.	Refund period (regulation: revocable within same period).
7.0(c)(4) (Code sec. 501(h))	To determine substantiality of lobbying expenditures by certain percentage tests.	Close of first year for which election effective (temporary regulation: irrevocable except as provided in final regulation).
7.0(c)(6) (Code sec. 1033(g)(3))	To treat outdoor advertising displays as replacement property for realty.	With timely return (Code: revocable with consent; temporary regulation: irrevocable except as provided in final regulation).
7.57(d)-1(b)(1)	To use cost depletion in computing straight-line recovery of intangibles.	Due date (with extension) of return for year in which intangible drilling cost paid.
10.2 (Code sec. 463)	To accrue vacation pay.	Due date (with extension) of return for first year for which election made.
10.3 (Code sec. 856)	Extension of 2 year grace period w/respect to foreclosure property held by a REIT.	60 days before expiration of 2-year period.
11.402(e)(4)(B)-1	To treat amounts received from an employees' trust as lumpsum distribution.	Refund period (regulation: revocable within same period).

Time Limitations Subject to § 1.9100-1 of the Income Tax Regulations (26 CFR Part 1)—Continued

Regulation section	Brief description of election, application, etc.	Current limitation for electing, applying, etc.
11.412(e)(1)-2(i)(1)	To determine the charges to the funding standard account under the shortfall funding method.	With annual report for first plan year affected, in general (regulation: method may be discontinued only with permission).
11.412(c)-7	To treat plan amendment as made on first day of plan year.	Due date of return (relating to minimum funding standards) for year to which election relates.
11.412(c)-11	To value bonds on an amortized basis (by plan administrator).	With return (Code: revocable with consent).
11.415(c)(4)-1	Election by participant to apply alternative limitation to contributions for annuity.	With return.
12.8(d) (sec. 163(d)(6))	Treatment of net leases for purposes of minimum tax and investment interest limitation.	Due date (with extension) of return for year for which applicable (regulation: revocable within same period).
12.9 (sec. 183(e))	To defer determination with respect to presumption that activity is profit-seeking.	3 years after due date (without extension) of return for first year of activity.

[FR Doc. 80-34354 Filed 11-4-80; 8:45 am]

BILLING CODE 4830-01-M

The Commission on the Organization of the Executive Branch of the Government is holding a public hearing on the subject of the proposed reorganization of the Executive Branch of the Government. The hearing will be held on November 11, 1980, at 10:00 a.m. in the Great Hall of the Executive Office Building, Washington, D.C. The hearing is open to the public and interested parties are invited to attend and present their views on the proposed reorganization. The Commission is particularly interested in hearing from those who have been affected by the proposed reorganization. The hearing will be held in the Great Hall of the Executive Office Building, Washington, D.C. The hearing is open to the public and interested parties are invited to attend and present their views on the proposed reorganization. The Commission is particularly interested in hearing from those who have been affected by the proposed reorganization.

The Commission on the Organization of the Executive Branch of the Government is holding a public hearing on the subject of the proposed reorganization of the Executive Branch of the Government. The hearing will be held on November 11, 1980, at 10:00 a.m. in the Great Hall of the Executive Office Building, Washington, D.C. The hearing is open to the public and interested parties are invited to attend and present their views on the proposed reorganization. The Commission is particularly interested in hearing from those who have been affected by the proposed reorganization. The hearing will be held in the Great Hall of the Executive Office Building, Washington, D.C. The hearing is open to the public and interested parties are invited to attend and present their views on the proposed reorganization. The Commission is particularly interested in hearing from those who have been affected by the proposed reorganization.

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Sunshine Act Meetings

Federal Register

Vol. 45, No. 216

Wednesday, November 5, 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).

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COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, November 14, 1980.

PLACE: 2033 K Street, NW, Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance briefing.

CONTACT PERSON FOR MORE

INFORMATION: Jane Stuckey, 254-6314.

[S-2024-80 Filed 11-3-80; 12:24 pm]

BILLING CODE 6351-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" citation of previous announcement: S-2000-80.

PREVIOUSLY ANNOUNCED TIME AND DATE

OF MEETING: 10 a.m. (eastern time), Tuesday, November 4, 1980.

CHANGE IN THE MEETING: The meeting originally scheduled for November 4, 1980 has been cancelled. The next Commission Meeting will be held Wednesday, November 12, 1980 at 9:30 a.m.

CONTACT PERSON FOR MORE

INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued October 31, 1980.

[S-2027-80 Filed 11-3-80; 2:06 pm]

BILLING CODE 6570-06-M

3

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold a Special Open Meeting, on the subjects listed below on Thursday, November 6, 1980 at 9:30 a.m., in Room 865, at 1919 M Street NW., Washington, D.C.

Agenda, Item Number, and Subject

Private Radio—1—Title: Report and Order to allocate 50 channels in the 800 MHz frequency band for slow-growth land mobile radio systems of governmental entities in the Public Safety Radio Services. **PR Docket 79-191, RM-3380. Summary:** The FCC is considering amendment of Part 90 of its Rules to set aside 50 radio channels in the 800 MHz private land mobile radio bands for applicants in the Public Safety Radio Services. These frequencies would be available to governmental entities for systems having long-term planning-to-implementation cycles.

Private Radio—2—Title: Report and Order to amend Part 90 of the Commission's Rules to facilitate authorization of wide-area mobile radio communication systems on frequencies allocated for trunked systems. **Summary:** The Commission will consider whether to amend its rules generally to permit wide-area mobile radio communication systems to operate on frequencies designated for use by trunked land mobile communications systems.

Private Radio—3—Title: Release of Private Land Mobile Channels in the 800 MHz Band. **Summary:** In this proceeding, the Federal Communications Commission will consider proposing the release of 200 land mobile channels in the 800 MHz band currently held in reserve and will consider a structure for regulating licensing and operation on these channels. This structure will allow licensees greater flexibility in using these new channels than is now allowed in using other private land mobile channels. The Commission will also consider inquiring into further modifications of the regulatory structure for these new channels. The purpose of this proceeding is to solicit public comment on the release of these 200 channels and on the structure for regulating these channels.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 30, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-2029-80 Filed 11-3-80; 3:48 pm]

BILLING CODE 6712-01-M

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FEDERAL COMMUNICATIONS COMMISSION.

The Commission will hold a Closed Meeting on the subject listed below following both the Special and Regular Open Meeting scheduled for Thursday, November 6, 1980, in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item Number, and Subject

Hearing—1—Petition for Special Relief in the Haverhill, Massachusetts, broadcast (Station WHAV-AM-FM) renewal proceeding (BC Docket No. 79-172).

Hearing—2—Petition for Special relief (distress sale) filed by DeWitt Broadcasting Company, Inc., in the Dewitt, Arkansas radio stations KDEW-AM-FM renewal proceeding (Docket Nos. BC 79-247, BC 79-248).

Hearing—3—Petitions for reconsideration and request for stay in the Tucson, Arizona comparative FM proceeding (Docket Nos. BC 79-56 through 79-60).

Hearing—4—Petitions for stay and reconsideration in the Harold A. Jahnke, Hampton, Iowa, extension of an FM construction permit proceeding (Docket No. 2142C).

Hearing—5—Application for review, filed by Poet's Broadcasting Inc., in the Greenfield, Massachusetts, comparative FM-broadcast station proceeding (Docket Nos. BC 79-54 BC 79-55).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 30, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-2028-80 Filed 11-03-80; 3:47 pm]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, November 6, 1980, following the Special Open Meeting which is

scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW, Washington, D.C.

Agenda, Item Number, and Subject

Hearing—1—Review of Initial Decision in the Virginia Beach, Virginia new FM station proceeding (Docket Nos. 19095 and 19096).

General—1—*Title:* Report and Order (General Docket 80-135; RM-3378) in response to petition by Del Norte Technology, Inc. to amend Parts 2 and 90 of the FCC's rules. *Summary:* Del Norte Technology, Inc. has filed a petition requesting deletion of the January 1, 1981, cut-off date in Parts 2 and 90 of the Rules to allow continued usage of the 420-450 MHz band for non-Government radiolocation along the shorelines of Alaska and the contiguous 48 states. The item before the Commission discusses the responses to the NPRM on the subject.

General—2—*Title:* Number of copies of pleadings in non-rulemaking and non-hearing matters before the Commission. *Summary:* The Commission amends Section 1.51(c) of the Rules reducing from 9 to 4 the number of copies of pleadings that must be filed in non-hearing and non-rulemaking matters before the Commission.

General—3—*Title:* In re petition by Lee M. Holmes (RM-3467) for amendment of Parts 2, 22, and 73 of the FCC's Rules and Regulations. *Summary:* Lee M. Holmes has filed a petition with the FCC requesting the reallocation of VHF-TV Channel 5 or 6 for TV broadcasting in the State of Hawaii. The Commission is also considering reallocating the band 98-108 MHz to FM broadcasting in Hawaii. Both bands are presently allocated exclusively to the common carrier fixed service for inter-island use. The item before the Commission discusses the merits of these actions.

Private Radio—1—*Title:* Petition for Review filed by Academy of Model Aeronautics requesting Commission to reverse staff rule interpretation holding that an unlicensed person may not operate Amateur radio station to control model aircraft. *Summary:* The Commission will consider whether to affirm or reverse the staff's interpretation of Amateur rule section 97.79(d).

Private Radio—2—*Title:* Notice of Proposed Rulemaking to delete or amend Part 81 at § 81.312(a)(6) of the Commission's Rules relative to public coast stations answering general calls on Channel 16. *Summary:* Presently, public coast stations may not answer calls which are not addressed to it by call sign; and, because many ship operators don't know or remember particular call signs of all public coast stations, many general calls are not answered. The FCC will consider whether to adopt a Notice of Proposed Rulemaking to delete or amend Part 81 at § 81.312(a)(6) relative to public coast stations answering general calls on Channel 16.

Private Radio—3—*Title:* Use of type F1 emission by amateur radio operators in the 1.8-2.0 MHz band. *Summary:* The Commission will consider whether or not to allow amateur radio operators to transmit type F1 emissions for radioteletype communications on the 1.8-2.0 MHz band.

Private Radio—4—*Title:* Report and Order regarding the operation of digital communications systems in the aeronautical enroute service. *Summary:* The FCC will consider whether to adopt a Report and Order amending Rule Sections 87.75, 87.99, 87.115 and 87.139. These sections relate to transmitter control requirements, station log requirements, station identification and operator license requirements. The amendments would facilitate the use of automatic digital communications in the aeronautical enroute service. The enroute service provides air-ground communications for the operational control of aircraft by the aircraft owners or operating companies.

Common Carrier—1—*Title:* Satellite Business Systems' application for authority to launch its first domestic satellite. *Summary:* The Commission will consider SBS' application for authority to launch its first satellite and position it at 106° W.L. in the geostationary orbit.

Common Carrier—2—*Title:* Modification of Depreciation Rates for Domestic Telephone Companies. *Summary:* The Commission has under consideration proposed changes in depreciation rates for eleven domestic telephone companies. The proposed depreciation rates are based upon studies of service life and net salvage factors which were prepared by the companies and the staffs of the respective state commissions and the FCC. This item is a part of the Commission's continuing program to prescribe depreciation rates for subject companies, as provided for in the Communications Act of 1934, as amended.

Common Carrier—3—*Title:* Docket No. 20188—Amendment of Part 31 of the Rules to permit the use of Equal Life Group depreciation. *Summary:* The Commission will consider the staff's recommendations on the Bell System proposal to permit the use of the equal life group procedure in calculating depreciation charges. Other issues to be considered are the use of alternative procedures (including capital recovery schedules), depreciation of station connection investment, and changes to Parts 31, 34 and 35 to bring the depreciation rules into conformity with one another.

Common Carrier—4—*Title:* CC Docket 79-105—Amendment of Part 31 of the Commission's Rules concerning the accounting for Station Connection Costs and other Related Issues. *Summary:* The Commission will consider proposed modifications to Part 31 of its Rules to allow for expensing of station connection costs which are currently capitalized in account 232. The Commission will also consider related issues for two-tier and other optional payment plans as well as for the sale and repair of customer premise equipment and inside wiring. Accounting changes for removal of telephone company provided station equipment and for the replacement of aerial drop wires will also be considered.

Common Carrier—5—*Title:* In re Bell System Procurement Practices, Docket 80-53; In re Bell Operating Company Procurement of Telecommunications Equipment, RM No. 3381. *Summary:* The Commission will

consider a Bell proposal submitted in response to its Final Decision in Docket 19129 regarding the procurement practices of the Bell Operating Companies. In addition, the Commission will consider a petition from ITT requesting it to order the Bell Companies to acquire one-third of their telecommunications equipment from General Trade suppliers.

Common Carrier—6—*Title:* License Contract Agreements and Other Intrasystem Arrangements of the Major Telephone Systems. *Summary:* The Commission will consider whether to initiate an inquiry and proposed rulemaking regarding license contracts and other intrasystem arrangements of the major telephone systems.

Common Carrier—7—*Title:* Applications of Communications Satellite Corporation to participate in construction and launch of Intelsat-V satellites, File Nos. 18-CSS-P-76, et al. *Summary:* The Commission will consider whether to grant applications filed by Comstat for authority (1) to participate in construction of nine Intelsat-V satellites, five of which will have maritime communications subsystems, and (2) to participate in the launch of the first Intelsat-V satellite in December 1980.

Common Carrier—8—*Title:* Inquiry into the Policies to be followed in the Authorization of Common Carrier Facilities to meet North Atlantic Telecommunications needs during the 1985-1995 period. *Summary:* Notice of Proposed Rulemaking in the Commission's Inquiry into development of the policies it shall apply in acting upon applications for the construction and use of new cable and satellite facilities in the North Atlantic during the 1985-1995 period.

Renewal—1—*Title:* Updated EEO program with hiring goals submitted by Sandia 76, Incorporated, licensee of Station KXAR, Hope, Arkansas. *Summary:* The Commission considers the updated EEO program including hiring goals for Blacks submitted by the licensee of Station KXAR.

Renewal—2—*Title:* Hiring goals and Timetables submitted by radio Station WHBB, Selma, Alabama. *Summary:* The Commission considers the updated EEO program which includes minority (Black) hiring goals and timetables submitted by radio Station WHBB, Selma, Alabama.

Renewal—3—*Title:* Updated EEO program with hiring goals submitted by Kaye-Smith Enterprises, licensee of Stations WUBE and WUBE-FM, Cincinnati, Ohio. *Summary:* The Commission considers the updated EEO program including hiring goals for Blacks submitted by the licensee of Stations WUBE and WUBE-FM.

Renewal—4—*Title:* Mutually Exclusive Applications of the City of New York for Renewal of License of Station WNYC-TV and True Witness Ministries for a Construction Permit for a New Television Station. *Summary:* The Commission considers the mutually exclusive applications of the City of New York for the renewal of WNYC-TV's license and True Witness Ministries for permission to construct a new television station.

Renewal—5—*Title:* Petition of the Mississippi Authority for Educational

Television for Partial Reconsideration of the Commission's July 24, 1980 Order granting license renewals. *Subject:* The Commission reviews a petition for partial reconsideration filed by the Mississippi Authority for Educational Television in which it challenges the requirement that it submit employment data with its next renewal applications.

Renewal—6—Title: License renewal application of American Broadcasting Companies, Inc. for Station KGO-TV, San Francisco, California. *Summary:* Community Coalition for Media Change filed a petition to deny the license renewal application for Station KGO-TV. The petition to deny charges that licensee's programming was deficient in several respects and that licensee did not comply with the Commission's EEO rules. The Commission considers petitioner's allegations.

Aural—1—Subject: Memorandum Opinion and Order in re the following applications for new AM stations: Alan K. Levin (BP-20, 581) and Dillon Broadcasting Co. (BP-780728A0), Dillon, Colorado; Summit Radio, Inc. (BP-780728AN), Dillon-Frisco-Silverthorne, Colorado; Eagle Radio, Inc. (BP-20,626) and Mountain Wireless Limited (BP-20,882), Vail, Colorado; Grand Radio, Inc. (BP-21,129), Fraser, Colorado; and Jefferson Wireless Co. (BP-781205AH), Golden, Colorado; and a petition to dismiss the Summit Radio, Inc. application, filed by Mr. Levin. *Summary:* The FCC considers the petition's allegation that the Summit Radio application violates the Commission's ownership rules, and designates the mutually exclusive applications for hearing.

Aural—2—Subject: A proposal by Hernstadt Broadcasting Corporation, licensee of AM station WKAT, Miami Beach Florida, to relocate its transmitter site and increase the height of its antenna. *Summary:* The Commission considers the WKAT proposal to increase facilities since it involves interference caused to and received from a Cuban station that operates in violation of the North American Regional Broadcasting Agreement (NARBA).

Broadcast—1—Title: Clarification of Commission policy regarding installation and use of Composite Baseband Clippers at FM stations. *Subject:* The Commission will consider a response to a request from Metromedia, Inc. for clarification of policy on the use of composite baseband clippers by FM broadcast stations. Some FM stations use these devices within the transmitter or make other transmitter modification to increase the loudness of the program at listener's receivers above the loudness of the program signal of stations not using clippers.

Broadcast—2—Title: Amendment of Section 73.606(b), Table of Assignments, Television Broadcast Stations, Medford and Grants Pass, Oregon. *Summary:* The Commission will consider Oregon Broadcasting Company's application for review of the Broadcast Bureau's denial of two petitions for reconsideration of the assignment of VHF Channel 12 to Medford, Oregon.

Broadcast—3—Title: Further Notice of Inquiry in Preparation for the Region 2

Administrative Conference for AM Broadcasting (BC Docket No. 79-166). *Subject:* The Commission will consider a Report adopted the First Session of the Region 2 Administration Conference and matters necessary for preparation for the Second Session of that Conference.

Broadcast—4—Title: Petition to reassign VHF-TV Channel 9 from New York City to a northern New Jersey community. *Subject:* The Commission will consider a petition from Senators Bradley and Williams of New Jersey to reassign VHF-TV Channel 9 from New York to a northern New Jersey community. Channel 9 is currently subject to an outstanding license (Station WOR-TV, RKO General, Inc.) which has not been renewed (appeal pending) and an application for a new station from Multi-State Communications.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 30, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-2030-80 Filed 11-3-80; 3:49 pm]

BILLING CODE 6712-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:40 a.m. on Thursday, October 30, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in Room 6023 on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C., to consider certain matters which it determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), required its consideration on less than seven days' notice to the public.

The Board met in open session to consider a Uniform Commercial Bank Performance Report.

The Board then met in closed session to consider a recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York; The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee; American Bank & Trust Company, New York, New York; and Farmers Bank of the State of Delaware, Dover, Delaware (Case No. 44,521-1). In considering the matter in a closed session, the Board determined,

by the same majority vote, 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)).

The Board further determined, by the same majority vote, that no earlier notice of the meeting was practicable.

Dated: October 30, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2022-80 Filed 10-31-80; 4:39 pm]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 8:55 a.m. on Friday, October 31, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider a recommendation regarding the liquidation of assets acquired by the Corporation from American Bank & Trust Company, New York, New York (Case No. 44,546-SR).

In calling the meeting, the Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), 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 by authority of subsections (c)(4), (c)(8), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), and (c)(9)(B)).

Dated: October 31, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2023-80 Filed 10-31-80; 4:39 pm]

BILLING CODE 6714-01-M

8

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., November 7, 1980.

PLACE: Room 9306, 825 North Capitol Street, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agency's participation in a civil action and the initiation of formal agency adjudication.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.
Kenneth F. Plumb,
Secretary.

[S-2032-80 Filed 11-3-80; 4:10 pm]

BILLING CODE 6450-83-M

9

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., October 31, 1980.

PLACE: Room 9306, 825 North Capitol Street, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

- (1) The agency's participation in a civil action.
- (2) The agency's disposition of formal agency adjudication.
- (3) The agency's participation in a civil action.
- (4) The agency's participation in a civil action and the initiation of formal agency adjudication.
- (5) An investigation and agency participation in a civil action.
- (6) The investigation of a jurisdictional company.
- (7) The agency's participation in a civil action.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.
Kenneth F. Plumb,
Secretary.

[S-2031 Filed 11-3-80; 3:50 pm]

BILLING CODE 6450-85-M

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 70624, October 24, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., October 29, 1980.

CHANGE IN THE MEETING: Addition of the following item to the open session:

8. Informal Docket No. 716(I)—Warner Lamber Company v. Flota Mercante Grancolombiana S.A.—Review of decision of the Settlement Officer.

[S-2021-80 Filed 10-31-80; 4:33 pm]

BILLING CODE 6730-01-M

11

NUCLEAR REGULATORY COMMISSION.

DATE: Week of November 3, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Monday, November 3:

2:30 p.m.

Briefing by Executive Branch (Closed—Exemption 1).

Tuesday, November 4:

2 p.m.

Discussion of Management-Organization and Internal Personnel Matters (closed—Exemptions 2 and 6) (as announced).

Thursday, November 6:

10 a.m.

Affirmation Session (public meeting).
 a. EDO Delegation of Authority.
 b. Advanced Notice of Proposed Rulemaking Concerning Design and Other Changes after CI Issuance.

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.

Walter Magee,
Office of the Secretary.

[S-2025-80 Filed 11-3-80; 2:03 pm]

BILLING CODE 7590-01-M

12

NUCLEAR REGULATORY COMMISSION.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

DATE: October 30 (changes).

STATUS: Open.

MATTERS TO BE CONSIDERED: Thursday, October 30:

10 a.m.

Affirmation Session (Additional) (approximately 5 minutes, public meeting).
 Relief from Pat Down Searches at Power Reactors.

3 p.m.

Briefing on Criteria for Emergency Offsite Facilities (continuation of October 28 Briefing on Clarification of TMI Action Plan Requirements) (additional item) (approximately 1 hour, public meeting).

ADDITIONAL INFORMATION: By a vote of 3-0 on October 30, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the additional Affirmation Session, held that day, be held on less than one week's notice to the Public.

On October 21, the Discussion on Fire Protection Program was continued from October 16, 1980.

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.

Walter Magee,
Office of the Secretary.

[S-2026-80 Filed 11-3-80; 2:04 pm]

BILLING CODE 7590-01-M

Federal Register

Wednesday
November 5, 1980

Part II

Environmental Protection Agency

**Strychnine; Preliminary Notice of
Determination Concluding the Rebuttable
Presumption Against Registration of
Pesticide Products; Notice of Availability
of Position Document**

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/7B; (PH-FRC 1655-7)]

Strychnine; Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of Pesticide Products; Notice of Availability of Position Document 2/3**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Preliminary notice of determination; availability of position.

SUMMARY: The Agency proposes to initiate actions to cancel registrations or deny applications for the following uses: the control of prairie dogs, deer mice, meadow mice, chipmunks and marmots/woodchucks on rangeland, pasture and cropland and the control of all rodents and lagomorphs on nonagricultural sites, with the exception of ground squirrels on ditch banks, levees, earthen dams and canals and porcupines in forests. The Agency also proposes to cancel registrations or deny applications unless the terms and conditions of registration are modified for the following uses: ground squirrels, jackrabbits, kangaroo rats, and cotton rats on rangeland, pasture, and cropland; ground squirrels on ditch banks, levees, earthen dams, and canals and porcupines in forests; birds on cropland; and pigeons and house sparrows on nonagricultural sites.

DATE: Written comments must be received on or before December 5, 1980.

ADDRESS: Comments should be sent to: Document Control Office (TS-793), Office of Pesticides and Toxic Substances, Rm. E-447, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Three copies of comments should be sent to the Document Control Office at the EPA Headquarters address given above. The comments should bear the identifying notation OPP-30000/7B.

FOR FURTHER INFORMATION CONTACT: Timothy A. Gardner, Section Head, Special Pesticide Review Division (TS-791), Office of Pesticide Programs, Rm. 711, Crystal Mall II, 1921 Jefferson Davis Highway, Arlington, Virginia 22202, 703-557-7400.

SUPPLEMENTARY INFORMATION: The Preliminary Notice of Determination and the strychnine Position Document set forth in detail the reasons for the regulatory actions being proposed. As required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, copies of this Preliminary Notice of Determination and the Position Document are being transmitted

to the Secretary of Agriculture and the Scientific Advisory Panel for comment; these documents are also being provided to the affected registrants and applicants for registration. Other interested persons may receive a copy of the Position Document by contacting Timothy A. Gardner, Section Head, at the address given.

I. Introduction

On December 1, 1976, the Environmental Protection Agency (EPA) issued a notice of rebuttable presumption against registration and continued registration (RPAR) of the outdoor, above ground use of pesticide products containing strychnine, thereby initiating the Agency's public review of the risks and benefits of strychnine. The rebuttable presumption was issued on the basis of (1) acute toxicity to mammals and birds, (2) significant reduction in populations of nontarget organisms, and (3) fatalities to members of endangered species. After Reviewing all available information, the Agency has determined that the presumptions for acute toxicity to mammals and birds, significant reduction in populations of nontarget organisms, and fatalities to members of endangered species has not been rebutted.

This notice constitutes the Agency's Notice of Determination (Notice) pursuant to 40 CFR 162.11(a)(5). This determination is preliminary at this point pending external review through submission to, and review by, the United States Department of Agriculture and the Scientific Advisory Panel, pursuant to sections 6(b) and 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. The action does not become final until the Agency has reviewed the comments of these reviewers and issued a final notice. Registrants and other interested persons have the period to submit comments that the statute provides for comments from the Secretary of Agriculture and the Science Advisory Panel.

In broad summary, the Agency has determined that the uses of strychnine meet or exceed the risk criteria outlined in 40 CFR 162.11 for hazards to wildlife and endangered species.

The risks that strychnine poses to certain exposed groups are of sufficient concern to require the Agency to consider whether these risks can be reduced. The Agency has considered benefits information including that submitted by registrants, interested persons, and the United States Department of Agriculture and has analyzed the economic, social, and environmental benefits of the uses of strychnine. The Agency has weighed

risks and benefits together, in order to determine whether the risks of each strychnine use are warranted by the benefits of the use. In weighing risks and benefits, the Agency considered what risk reductions could be achieved and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the risks of certain outdoor, above ground uses of strychnine are greater than the social, economic, and environmental benefits of these uses, and that risk reduction measures cannot reduce the risk to an acceptable level. Accordingly, the Agency is proposing to initiate action to cancel or deny registrations for the use of strychnine to control prairie dogs, deer mice, meadow mice, chipmunks, and marmots/woodchucks on rangeland, pasture and cropland, and for the use of strychnine to control all rodents and lagomorphs on nonagricultural sites with the exception of ground squirrels on ditch banks, levees, earthen dams and canals and porcupines in forests.

The Agency has determined that the cancellation of these uses of strychnine will not have a significant impact on the production and prices of agricultural commodities, retail food prices and otherwise on the agricultural economy. For the remaining uses, namely ground squirrels, cotton rats, kangaroo rats, and jackrabbits on rangeland, pasture, and cropland, ground squirrels on ditch banks, levees, earthen dams, and canals, porcupines in forests, and birds on crops and non-agricultural sites, the Agency has determined that the risks of strychnine uses are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms and conditions of registration. Accordingly, the Agency is proposing to initiate action to cancel or deny registration for the control of ground squirrels, cotton rats, kangaroo rats, and jackrabbits on rangeland, pasture, and cropland, ground squirrels on ditch banks, levees, and canals, porcupines in forests, and birds on crops and nonagricultural sites unless the terms and conditions of registration are modified.

These modifications include standardization of bait concentrations and baiting procedures, and the prohibition of use where the continued existence of endangered species may be jeopardized. The Agency has further determined that these modifications in the terms or conditions of registration accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. These

modifications in the terms and conditions of registration for the above uses will not have a significant impact on the agricultural economy.

The remainder of this notice and the accompanying Position Document set forth in detail the Agency analysis of comments submitted during the rebuttal phase of the strychnine RPAR, and the Agency's reasons and factual basis for the regulatory actions it is initiating. The Notice is organized into four units: I. Introduction, II. Legal Background, which sets forth a general discussion of the regulatory framework within which this action is taken, III. Determination and Initiation of Regulatory Action, which sets forth the Agency's determinations concluding the strychnine RPAR and initiating the regulatory actions which flow from these determinations (III. and the Position Document set forth the basis for these determinations), and IV. Procedural Matters, provides a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is initiating in this Notice.

II. Legal Background

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" under section 3(c)(5). The term "unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide" under section 2(bb) of FIFRA. In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognized practices. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a public, informal procedure for the gathering and evaluation of

information about the risks and benefits of these uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations.

The Agency generally announces that an RPAR has arisen by issuing a notice to be published in the **Federal Register**. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to humans or to animals or plants of concern with regard to the adverse effects in question. See 40 CFR 162.11(a)(4). Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risks of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the risk presumptions have been rebutted. If the Agency determines that a presumption is not rebutted, it will then consider information relating to the social, economic, and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency.

After weighing the risks and the benefits of a pesticide use, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration pursuant to FIFRA section 6(b)(1) and section 3(c)(6) or by issuing a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registrations should be cancelled or applications for registration denied.

In determining whether the use of a pesticide poses risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benefits of the use. Among the risk reduction measures short of cancellation which are available to the Agency are changes in the directions for use on the pesticide's labeling and classification of the pesticide for "restricted use" pursuant to FIFRA section 3(d).

FIFRA requires the Agency to submit notices issued pursuant to section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy under section 6(b). The Agency is required to submit these documents to the Secretary at least 60 days before making the notice public. If the Secretary of Agriculture comments in writing within 30 days after receiving the notice, the Agency is required to publish the Secretary's comments and the Administrator's response with the notice. FIFRA also requires the Administrator to submit section 6 notices to a Scientific Advisory Panel for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture under section 25(d).

Although not required to do so under the statute, the Agency has decided that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decisionmaking to afford registrants and other interested persons an opportunity to comment on the basis for the proposed action during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps will be taken to make copies of the position document available to registrants and other interested persons at the time the decision documents are transmitted for formal external review, through publication of a notice of availability in the **Federal Register** or by other means. Registrants and other interested persons will be allowed the same 30 day period of time to comment that the statute provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After completing these external review procedures and making any changes in the proposed action which are deemed appropriate as a result of the comments received, the Agency will proceed to implement the desired regulatory action by preparing appropriate documents and releasing them in the manner prescribed by the statute and by the Agency's rules.

III. Determination and Initiation of Regulatory Action

The Agency has considered information on the risks associated with the uses of strychnine including information submitted by registrants and other interested persons in rebuttal

to the strychnine RPAR. The Agency has also considered information on the social, economic, and environmental benefits of the uses of strychnine subject to the RPAR, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions, and information submitted by the United States Departments of Agriculture and Interior.

The Agency's assessment of the risks and benefits of the uses of strychnine subject to this RPAR, its conclusions and determinations whether any uses of strychnine pose unreasonable adverse effects on the environment, and its determinations whether modifications in terms or conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects are set forth in detail in the position document. This position document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the position document, the determinations of the Agency with respect to strychnine are as follows:

A. Determination of risk. The strychnine RPAR was based on information indicating that strychnine posed the following risks to wildlife: (1) acute toxicity to mammals and birds, (2) significant reduction in populations of nontarget organisms, and (3) fatalities to members of endangered species. As developed fully in the position document (PD 2/3), the Agency has determined that the information submitted to rebut the risk criteria was insufficient to overcome the presumption against strychnine for these effects.

In addition to the studies discussed in the position document accompanying the RPAR notice, the Agency reviewed other information regarding the toxicity of strychnine. In particular, an extensive review was made of the potential exposure of endangered species to strychnine bait. The United States Department of the Interior, Fish and Wildlife Service (FWS), in response to a consultation request by EPA, evaluated the endangered species most likely to be exposed to strychnine according to use information provided by EPA, and rendered their opinion as to which species were likely to be jeopardized by the use of strychnine. The report by FWS, together with other studies reviewed on possible risks to endangered species, formed the basis for

the decision to prohibit use in the area of certain endangered species.

Toxicity data, both from laboratory and field studies, on the registered alternatives to strychnine, were evaluated and compared with toxicity data for strychnine to determine the relative risks of the rodenticides.

Based on the review of the risk information, the Agency determined that the risks of strychnine use were of sufficient magnitude to require the Agency to determine whether offsetting social, environmental, or economic benefits result from the use of strychnine.

B. Determination on benefits. The Agency faced severe data limitations in this analysis and had to use considerable judgement in evaluating the potential economic consequences of cancelling the outdoor, above-ground uses of strychnine. The analysis often provided qualitative estimates of discussions of impacts due to the lack of sufficient usage or comparative efficacy data to support precise quantitative estimates. Although estimates in the position document are reported as point estimates, they represent rough predictions of strychnine bait distribution and economic impact. The Agency used reasonable assumptions in its estimates to reflect the general economic consequences of cancelling strychnine usage.

In general, the economic impacts of cancelling the outdoor, above-ground uses of strychnine would not significantly affect U.S. production or prices of major commodities or services. Impacts on agricultural productivity and production costs would generally be limited to users in western states. Regional or local impacts to users were indicated where no registered alternatives exist or where registered alternatives are more costly, impractical, or ineffective.

The uses of strychnine which are subject to this RPAR were grouped into five categories: (1) rodents and lagomorphs on rangelands and pasture, (2) rodents and lagomorphs on croplands, (3) rodents and lagomorphs on non-agricultural sites, (4) birds on croplands, and (5) birds on non-agricultural sites.

(1) *Rodents and lagomorphs on rangelands and pasture.* Strychnine is federally registered for use in the control of such rangeland mammals as ground squirrels, prairie dogs, deer mice, meadow mice, cotton rats, kangaroo rats, and jackrabbits. Federally registered alternatives for ground squirrels include gas cartridges, carbon disulfide, paradichlorobenzene and carbon tetrachloride. Anticoagulants,

methyl bromide, zinc phosphide and compound 1080 (currently under RPAR review) are registered in some states for ground squirrel control. Zinc phosphide is federally registered for the control of prairie dogs, cotton rats, kangaroo rats, and field and meadow mice. For the control of jackrabbits, the repellent Thiram is federally registered, and anticoagulants are state registered in California.

Based on 1977-1978 estimates, the use of strychnine bait to control rodents and lagomorphs on rangeland accounts for approximately 46 percent of the annual use of strychnine.

Cancellation of strychnine for the control of rodents and lagomorphs on rangeland could increase the costs for ground squirrel control by \$900,000 to \$1.5 million annually, depending on the alternative used and the continued registration of compound 1080. The cost of prairie dog control could decrease by \$24,000 annually due to the availability of zinc phosphide. No estimates are available for other rodents and lagomorphs as these account for less than 1 percent of the total strychnine use.

(2) *Rodents and lagomorphs on cropland.* Strychnine is federally registered for the same pests on cropland as on rangeland and pasture. Registered alternatives for this category are the same as those for rangeland use with the exception of zinc phosphide, which is not registered for cropland use. Based on 1977-1978 estimates, the use of strychnine to control rodents and lagomorphs on cropland accounts for approximately 42 percent of the annual use of strychnine, with the 91 percent majority used for the control of ground squirrels.

Cancellation of strychnine for the control of ground squirrels on cropland could result in an increase in annual control costs of \$1.4 million to \$1.6 million, depending on the alternative used and the continued registration of compound 1080. Cancellation for prairie dog control could result in an increase in annual control costs of \$206,300 to \$270,900. No estimates are available for other rodents and lagomorphs on cropland, since this accounts for approximately 2 percent of the bait used.

(3) *Rodents and lagomorphs on nonagricultural sites.* Strychnine is federally registered for the control of ground squirrels, prairie dogs, cotton rats, kangaroo rats, deer mice, meadow mice, jackrabbits, chipmunks, marmots/woodchucks, house mice, porcupines, and rabbits on nonagricultural sites. For this analysis, nonagricultural sites are defined as areas which are not involved

in the direct production of crops or livestock. These include structures, premises, embankments, nonagricultural turf area, and private forest areas.

Federally registered alternatives for mice include compound 1080, zinc phosphide, anticoagulants, gas cartridges, and carbon disulfide. Zinc phosphide is federally registered for control of prairie dogs, cotton rats and kangaroo rats. For ground squirrel control, gas cartridges and carbon disulfide are federally registered. Compound 1080, zinc phosphide, anticoagulants, and methyl bromide are registered in some states for ground squirrel control.

The use of strychnine for this category accounts for less than 3 percent of the annual strychnine use, based on 1977-1978 estimates. Thus, very little data are available to estimate benefits.

Cancellation of strychnine, assuming alternatives are not used, would result in an increase in embankment failures. Each incidence can cost in excess of \$10,000 to repair. Also, although the benefits of controlling porcupines in forest areas cannot be estimated, strychnine is the only registered rodenticide available.

(4) *Birds on cropland.* Strychnine is not federally registered for the control of birds on cropland, although it is registered in California for a variety of birds and in Nevada and Wyoming for magpie control. The analysis of benefits for this use category is limited to California since sufficient data were not available for the other two states. Based on 1977-1978 estimates, the use of strychnine to control birds on California cropland accounted for less than 4 percent of the annual use of strychnine.

No alternative toxicants are federally registered for bird control in cropland. If strychnine were cancelled for this use, repellents, mechanical and electronic devices, trapping, shooting, and habitat manipulation would most likely be used. Estimated losses on croplands in California resulting from the cancellation of strychnine, assuming no alternatives are used, could reach \$1.5 million annually. Compared with the total California crop production of \$5.5 to \$6.0 billion annually, the U.S. supply of California crops would be largely unaffected by the cancellation of strychnine, although individual producers may be seriously affected.

(5) *Birds on nonagricultural sites.* Strychnine is federally registered for outdoor use in the control of pigeons and house sparrows on structures, vacant lots, and roosting places. This use accounts for approximately 6 percent of the annual strychnine use,

based on 1977-1978 estimates, with over 98 percent used to control pigeons.

A variety of alternatives are federally registered, including repellents, frightening agents, and a chemosterilant. In addition, a number of mechanical devices are available. The major impact resulting from the cancellation of strychnine for outdoor control of pigeons and house sparrows would be the elimination of a quick-acting tool when public health is an issue.

In the aggregate, no significant consumer impacts would be expected from cancellation since alternatives are available.

C. Determination of unreasonable adverse effects. For the reasons set forth in detail in the accompanying position document, the Agency has made the following unreasonable adverse effect determinations with respect to the outdoor, above-ground uses of strychnine:

(1) The Agency has determined that the risks arising from the use of strychnine are greater than the social, economic, and environmental benefits when used to control prairie dogs, deer mice, meadow mice, chipmunks, and marmots/woodchucks as rangeland, pasture, cropland, and to control prairie dogs, jackrabbits, chipmunks, marmots/woodchucks, kangaroo rats, cotton rats, deer mice, meadow mice, mountain beavers, opossums, and rabbits on nonagricultural sites, and that risk reduction measures cannot reduce the risks to an acceptable level for these uses. Accordingly, the Agency is proposing to initiate action to cancel or deny registrations for all the above enumerated uses.

The Agency has determined that the cancellation or denial of registration of these uses of strychnine will not have a significant impact on the production and prices of agricultural economy.

(2) The Agency has further determined that the risks arising from the use of strychnine are greater than the social, economic, and environmental benefits when used to control ground squirrels, cotton rats, kangaroo rats, and jackrabbits on rangeland, pasture, and cropland, ground squirrels on ditch banks, levees, earthen dams, and canals, porcupines in forests, and birds on crops, structures, vacant lots, and roosting places, unless risk reductions are accomplished by modifications in the terms and conditions of registration.

Accordingly, the Agency is proposing to initiate action to cancel or deny registrations for all the above enumerated uses unless the terms and conditions of registration are modified. These conditions include a prohibition of use where the continued existence of

endangered species may be jeopardized, standardization of bait concentration, and standardization of baiting and post-baiting procedures.

The Agency has further determined that these modifications in the terms and conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits on the uses. These stricter label requirements will not have a significant impact on production and prices of agricultural commodities, retail food prices, or otherwise on the agricultural economy. The Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the uses of strychnine to control ground squirrels, cotton rats, kangaroo rats, and jackrabbits on rangeland, pasture, and cropland, ground squirrels on ditch banks, levees, earthen dams and canals, porcupines in forests and birds on crops, structures, vacant lots, and roosting places will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practices, and that the labeling of strychnine pesticide products will not comply with the provisions of FIFRA.

D. Initiation of regulatory actions. Based upon the determinations summarized above and set out in detail in the Position Document, the Agency is proposing to initiate the following regulatory actions:

(1) Cancellation and denial of registrations of strychnine products for use in controlling prairie dogs, deer mice, meadow mice, chipmunks and marmots/woodchucks on rangeland, pasture, and cropland.

(2) Cancellation and denial of registrations of strychnine products for use in controlling prairie dogs, deer mice, meadow mice, chipmunks, marmots/woodchucks, jackrabbits, kangaroo rats, cotton rats, mountain beavers, opossums, and rabbits on nonagricultural sites.

(3) Cancellation and denial of registrations for strychnine products for use in controlling ground squirrels on rangeland, pasture, cropland, ditch banks, levees, earthen dams and canals unless the registrants or applicants for registration modify the labelling of strychnine products to include the following:

This product must not be used in areas where adverse impact on federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to

the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species.

For use only to control ground squirrels on rangeland, pasture, cropland, ditch banks, levees, earthen dams and canals:

Active Ingredient: Strychnine (expressed as alkaloid). 0.20%

Inactive Ingredient. 99.80%

Use one level tablespoon per burrow.

Do not expose bait where pets, poultry, or livestock are present.

Do not place bait in piles.

Bait dyed in accordance with recommendations of the U.S. Fish and Wildlife Service.

For the protection of endangered species, do not use in the following counties:

State	Counties
Utah.....	Garfield, Iron, Kane, Piute, Sevier, Wayne.
California.....	Alameda, Contra Costa, Fresno, Kern, Kings, Los Angeles, Merced, Monterey, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Ventura.

Do not use in the following counties during the months of October through March:

State	Counties
California.....	Butte, Colusa, Del Norte, Glenn, Humboldt, Mendocino, Solano, Sutter, Yolo, Yuba.

Do not use in known gray wolf or grizzly bear areas.

Do not use within one mile of a prairie dog town or an active prairie dog burrow.

(4) Cancellation and denial of registration for strychnine products for use in controlling kangaroo rats on rangeland, pasture, and cropland unless the registrants and applicants for registration modify the labelling of strychnine products to include the following:

This product must not be used in areas where adverse impact of federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for

specific information on endangered species.

For use only to control kangaroo rats on rangeland, pasture, and cropland:

Active Ingredient: Strychnine (expressed as alkaloid). 0.16%

Inactive Ingredient. 99.84%

Use 3 to 4 tablespoons for hand application or 1/2 to 3/4 pound per swath-acre for mechanical application.

Do not expose bait where pets, poultry or livestock are present.

Do not place bait in piles.

Bait dyed in accordance with recommendations of the U.S. Fish and Wildlife Service.

For the protection of endangered species, do not use in the following counties:

State	Counties
Utah.....	Garfield, Iron, Kane, Piute, Sevier, Wayne.

(5) Cancellation and denial of registration for strychnine products for use in controlling cotton rats on rangeland, pasture, and cropland unless the registrants and applicants for registration modify the labelling of strychnine products to include the following:

This product must not be used in areas where adverse impact on federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species.

For use only to control cotton rats on rangeland, pasture, and cropland:

Active Ingredient: Strychnine (expressed as alkaloid). 0.16%

Inactive Ingredient. 99.84%

Use 3 to 4 tablespoons for hand application or 1/2 to 3/4 pound per swath-acre for mechanical application.

Do not expose bait where pets, poultry or livestock are present.

Do not place bait in piles.

Bait dyed in accordance with recommendations of the U.S. Fish and Wildlife Service.

For the protection of endangered species, do not use in the following counties or parishes:

State	Counties
Texas.....	Chambers, Oranges, Jefferson.
Louisiana.....	Cameron, Calcasieu.
Florida.....	Brevard, Collier, Dade, Monroe.
Mississippi.....	Jackson.

(6) Cancellation and denial of registration for strychnine products for use in controlling jackrabbits on rangeland, pasture, and cropland, unless the registrants and applicants for registration modify the labeling of strychnine products to include the following:

This product must not be used in areas where adverse impact on federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species.

For use only to control jackrabbits on rangeland, pasture and cropland.

Active Ingredient (Grain Bait):

Strychnine (expressed as alkaloid). 0.10%

Inactive Ingredient. 99.90%

Use the equivalent of 4 to 5 alfalfa shoots.

Do not expose bait where pets, poultry, or livestock are present.

Do not place bait in piles.

Bait dyed in accordance with recommendations of the U.S. Fish and Wildlife Service.

For the protection of endangered species, do not use in the following counties or parishes:

State	Counties
Utah.....	Garfield, Iron, Kane, Piute, Sevier, Wayne.
California.....	Alameda, Contra Costa, Fresno, Kern, Kings, Merced, Monterey, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare.
Arizona.....	Pima, Santa Cruz.
Texas.....	Aransas, Austin, Brazoria, Calhoun, Chambers, Colorado, DeWitt, Fort Bend, Galveston, Goliad, Harris, Jackson, Jefferson, Lavaca, Matagorda, Orange, Refugio, Victoria, Waller, Wharton.
Louisiana.....	Cameron, Calcasieu.

(7) Cancellation and denial of registration for strychnine products for use in controlling porcupines in forests, reforestation areas, and tree plantations, unless the registrants and applicants for registration modify the labeling of strychnine products to include the following:

(TS-793), Rm. E-447, 401 M Street SW., Washington, D.C. 20460.

In order to facilitate the work of the Agency and of others inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation 30000/7B and should be submitted on or before November 5, 1980. All comments are available for public inspection in the Document Control Office, address above, from 8:00 AM to 4:00 PM, Monday through Friday, except legal holidays.

After completion of these review procedures, the Agency will consider the comments received and publish an analysis of them, together with any changes in the regulatory actions announced in this Notice which it determines are appropriate. Until this final review phase is concluded in this manner, it is not necessary for registrants or other interested persons to request a hearing to contest any regulatory action resulting from the conclusion of this RPAR.

Dated: October 20, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-34431 Filed 11-4-80; 8:45 am]

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Federal Register

Wednesday
November 5, 1980

Part III

Department of Housing and Urban Development

Office of Assistant Secretary for
Community Planning and Development

**Community Development Block Grants;
Clarifications and Changes to Urban
Development Action Grant Rules**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

**Office of Assistant Secretary for
Community Planning and Development**

24 CFR Part 570

[Docket No. R-80-792]

**Community Development Block
Grants; Clarifications and Changes to
Urban Development Action Grant
Rules**

AGENCY: Office of Urban Development
Action Grants, HUD.

ACTION: Final rule.

SUMMARY: This rule revises the requirements governing urban development action grants. The publication of this final rule is intended to clarify policies and procedures used in the action grant program in order to better inform potential applicants of program requirements.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Burke, Regions 1 and 4-(202/755-7362), Stanley Newman, Region 2-(202-755-6193), Harvey Zeiger, Regions 3 and 10-(202-755-0268), William Hammer, Region 5-(Illinois, Indiana, and Minnesota)-(202-755-6035), and Senior Development Officer (Michigan, Ohio, and Wisconsin)-202/755-6284, Charles Kendrick, Regions 6 and 8-(202/755-5620), Wally May, Regions 7 and 9-(202/755-8227) (These are not toll free numbers). Address: Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 1980, the Department published in the *Federal Register* (45 FR 31262) proposed rules governing the Urban Development Action Grant program.

Interested parties were given until July 11, 1980 to comment. All comments with respect to the proposed rule were given careful consideration. As a result of 24 responses filed, the following changes are being made:

Section 570.450 Purpose.

Three respondents to the regulation suggested that HUD amend this section to incorporate objectives in addition to those of strengthening the employment, economic, and tax base of distressed communities. Specifically, they suggested that we include language to encourage the growth and formation of

small businesses and historic preservation and that we define deteriorating housing as housing constructed prior to 1940. We believe, however, that the language of the purpose section clearly delimits the objectives of the legislation implementing urban development action grants and that further additions weaken the expressed intent of the law.

Section 570.451 Definitions.

The section of definitions has been expanded to include an appropriate reference to a Pocket of Poverty community as an eligible community. Several changes have been made in the text to specify technical needs which were not clearly stated in the proposed rules. In addition, we have revised the hypothetical example for the calculation of the firm private commitment to exclude working capital. We have also included a more workable definition of activities and excluded all references to action grant funded and non-action grant funded activities in conformance with the grant agreement.

Section 570.452 Distressed communities.

One commentator suggested that a non-distressed community located between 2 distressed communities be allowed to apply for Action Grants. We refer that reader to § 570.455 for information on how a project may be located outside the applicant jurisdiction's boundaries. Lastly, the writer suggested that in addition to allowing a waiver on the closely settled test, we follow suit on the population density factor. HUD points out that the closely settled waiver was legislatively mandated by the 1979 Amendments to the Housing and Community Development Act of 1977.

A number of readers suggested that we change the eligibility criteria. However, we believe that the present criteria adequately carry out the intent of the legislation.

Section 570.453 Eligible applicants.

We have now added appropriate references to Pockets of Poverty communities in order to consolidate the regulations. A couple of respondents urged HUD to consider the applicant's record on equal opportunity for women in determining program eligibility. However, as we explained in the proposed rules, the statute requires that HUD specifically examine the applicant's provision of equal opportunity for minorities.

Section 570.454 Other actions which must be taken prior to submission of a full application.

Several persons suggested that citizens should actually be involved in the development of the written citizen participation plan which details the procedures for citizen participation. A couple of other comments expressed the view that negative statements from neighborhood groups must be written and responded to by the local government. While we encourage citizen participation at all points in the Action Grant program, we believe that this is a local government responsibility and that it should, therefore, make the determination about the written citizen participation plan and any requirements it may impose on local citizen groups.

As a result of one comment, the regulations now state that applicants requesting joint federal assistance must be aware that environmental requirements may differ by agency. HUD encourages those applicants to include such other agencies when distributing their notice of assessment.

Section 570.457 Relocation and land acquisition.

A couple of respondents commented that application of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 should not be mandatory. The law, however, is very clear in making it applicable in instances where a State agency acquires real property for a project assisted under this subpart and displacement results from such acquisition.

Several persons thought that the application of the Uniform Act guidelines to all parts of an action grant project where the law did not mandate its application was either too broad or that those parts of the project which were not using action grant funds should be excluded. It is our policy that any activity for which a "but for" statement has been made should be considered an action directly contingent upon the receipt of public, and in this case, federal funds. For this reason, HUD adopted the policy to apply to all aspects of an action grant project—whether or not an activity directly receives federal assistance.

Some of the changes made to the rule were to conform the language to that of the 312 regulations.

On the issuance of notice to residential tenants, two comments indicated displeasure with the time frame. With HUD approval, the issuance of notice may be made later than the 30 days after the preliminary approval announcement.

We received only 5 comments on the specific issue of provision of relocation benefits for nonresidential tenants even though we specifically solicited them. Generally, the comments supported the provision but stressed that the coverage was too broad or not explicit enough. As a result of HUD's concern for equity in dealing with nonresidential tenants, we have changed the rule to allow for the provision of a notice of displacement to nonresidential tenants when the applicant in its sole discretion believes that it would be equitable to do so.

Section 570.458 Full applications.

A number of technical changes have been made to the requirements for full applications as a result of public comments. The requirements for historic preservation are more clearly spelled out both in the application requirements and the certifications. A couple of comments suggested that HUD not place the responsibility of the National Environmental Policy Act directly on the applicant; however, we refer those readers to Section 104(h) of the Housing and Community Development Act. In addition, we have added some provisions relating to discrimination on the basis of age or handicap and added a clause for compliance with Executive Order 12138.

Section 570.459 Criteria for selection.

A few respondents thought that the minimum leverage ratio of 2.5 to 1.0 was arbitrary. The historical operation of the action grant program, however, demonstrates that the ratio is not arbitrary and in fact, given the competitive nature of the program, is the minimum for funded projects with the average ratio actually being close to 6:1. A couple of comments suggested that retained jobs should be given equivalent consideration to net new permanent jobs. Although we consider retained jobs in selecting projects for funding, the intent of the program is the creation of new investment and new job generating activities. For this reason, we give more weight to the creation of net new permanent jobs.

Section 570.460 HUD review and action on applications.

As a result of public comment, we have now added language stating that public announcements of preliminary funding approvals will be made shortly after the decision date.

Section 570.462 Incurring costs for project activities after preliminary approval.

A new section has been added to cover procedures for incurring action

grant funded costs and to give further guidance to communities prior to receiving preliminary funding approval. For this reason, § 570.462 Project Amendments and Revisions is now numbered § 570.463.

Other Changes

A number of other minor technical changes are included throughout the revision of this rule.

A finding of no significant impact under the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. The changes embodied in the regulation have been evaluated and have been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of governments. Copies of the findings are available for inspection and copying in the Office of the Rules Docket Clerk at the above address. In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee of Banking, Finance and Urban Affairs of the House of Representatives have waived the delay of effective date required by Section 7(o)(3) of the Department of Housing and Urban Development Act.

Accordingly, 24 CFR Part 570 is amended as follows:

1. Subpart G to Part 570 is revised to read as follows:

Subpart G—Urban Development Action Grants

- 570.450 Purpose.
- 570.451 Definitions.
- 570.452 Distressed communities.
- 570.453 Eligible applicants.
- 570.454 Other actions which must be taken prior to submission of a full application.
- 570.455 Eligible activities.
- 570.456 Ineligible activities and limitations on eligible activities.
- 570.457 Relocation and land acquisition.
- 570.458 Full applications.
- 570.459 Criteria for selection.
- 570.460 HUD review and action on applications.
- 570.461 Post preliminary approval requirements.
- 570.462 Incurring costs for project activities after preliminary approval.
- 570.463 Project amendments and revisions.
- 570.464 Applicability of rules and regulations.

Authority: Title I, Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq.; Title I, Housing and Community Development Act of 1977, Pub. L. 95-128; Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Subpart G—Urban Development Action Grants

§ 570.450 Purpose.

(a) The purpose of urban development action grants is to assist distressed cities and urban counties which require increased public and private investment in order to strengthen their economic, employment, and tax base. The program is intended to help revitalize cities and urban counties experiencing a combination of the following characteristics: loss of population and jobs, stagnating or declining tax bases, high percentages of poverty, low per capita income change, high unemployment, and deteriorating housing.

(b) HUD will allocate grant funds throughout the year to ensure that assistance is available for each calendar quarter. Not less than twenty-five percent of the funds made available under this subpart shall be used for small cities.

(c) Specific provisions for cities and urban counties containing Pockets of Poverty are found in § 570.466.

§ 570.451 Definitions.

The following definitions apply only to this subpart:

(a) A "large city" means any metropolitan city pursuant to § 570.3(r) and any city with a population of 50,000 or more.

(b) A "small city" means any city under fifty thousand which is not a central city of a metropolitan area.

(c) A "distressed community" is a city or urban county which meets the criteria in § 570.452.

(d) A "Pocket of Poverty" means a severely distressed area meeting the requirements of § 570.466(a) which is located in a city or urban county which does not meet the distress criteria of § 570.452. As used in this subpart, a "Pockets of Poverty Community" is a city or urban county which contains a pocket of poverty.

(e) An "eligible applicant" is a city or urban county which meets the eligibility requirements of § 570.453 and either the requirements of § 570.452 on distress or the requirements of § 570.466(a) for Pockets of Poverty.

(f) "Activities" mean all activities of the project, unless otherwise specified.

(g) A "project" means the group of integrally related public and private activities described in the grant agreement which are to be carried out to meet the objectives of the action grant program and it consists of all Recipient and non-Recipient activities as described in the grant agreement. There are three types of action grant projects:

(1) "Commercial projects" are those which are predominantly retail, office or commercial in nature and which are located in primarily commercial areas such as a central business district.

(2) "Industrial projects" are those which are predominantly warehousing, manufacturing or industrial in nature and which are located in primarily industrial areas such as an industrial park or a central business district.

(3) "Neighborhood projects" are those which: (i) Include industrial, commercial, and/or residential activities located in a residential area or (ii) are predominantly residential in nature such as the construction of new housing units or the rehabilitation of existing units or (iii) primarily benefit a residential neighborhood or its residents.

(h) A "participating party" is any person, firm, corporation, or entity so identified in the grant agreement which has agreed to perform activities.

(i) A "firm private commitment" means the agreement by which the private participating party in the action grant program agrees to perform an activity specified in the application and demonstrates the financial capacity to deliver the resources necessary to carry out the activity, and commits the resources to the project. No project will be considered for funding unless it contains a firm private commitment. Although a firm private commitment need not be legally binding at the time preliminary funding decisions are made, it must be legally binding before action grant funds may be expended. In documenting a firm private commitment, the private participating party must:

(1) specify the authority by which the commitment is made, the amount of the commitment and the use of the funds. If the committed activity or a portion of it is to be self-financed, the private participating party must evidence its financial capability through a corporate or personal financial statement or through other appropriate means. If any portion of it is to be financed through a lending institution, the participant must submit evidence of the institution's commitment to fund the loan;

(2) state the amount and use of the action grant, and the relationship of the action grant to the proposed investment, and the number of net new permanent and construction jobs to be created by the activity;

(3) affirm that its investment is contingent upon receipt of the total action grant or other public money (or a specified portion thereof), include a statement that but for the receipt of the public funds requested, this project would not be built, and state a willingness on the part of the signatory

to sign a legally binding commitment upon preliminary approval of the action grant.

(j) A "firm public commitment" means the agreement by which a public participating party in the action grant program agrees to perform the activity specified in the application and commits the necessary resources to the project. No project containing a requirement for other public financing will be considered for funding unless it contains a firm public commitment.

Documentation of a firm public commitment will generally take the form of a city or county council resolution or a letter from a federal or state agency stating the amount and purpose of the funding available, and that the funds are committed to the project.

(k) A "legally binding commitment" means a legally enforceable written obligation made by a private or public participating party to complete a specified activity or set of activities which is approved as part of the action grant project.

(l) The "leveraging ratio" is defined as the total amount of firm private commitment generated by the project divided by the amount of action grant funds awarded to the project.

(1) In calculating the amount of firm private commitment, HUD will only consider new investments which are contingent upon the receipt of action grant funds and which are necessary to make a new permanent capital improvement. For example, expenditures for land assembly, new construction or rehabilitation will be included in the calculation of the private commitment for a project. Working capital and inventory will not be included.

(2) A hypothetical example illustrates how the leveraging ratio is derived. A private industry agrees to build a widget factory. The company agrees to put \$2 million in equity into the plan (\$1 million into the construction of the plant and \$1 million into working capital), borrows \$5 million in a first mortgage from a bank, and says that but for the receipt of Action Grant funds in the amount of \$1 million to be used as a second mortgage, the company will not be able to build this project. The applicant agrees to use \$500,000 in community development block grant funds to provide offsite improvements. The leveraging ratio would be obtained by adding the \$1 million in capital equity, the \$5 million first mortgage, plus the discounted value of the action grant second mortgage which (for the purpose of this example) equals \$700,000. The total amount of firm private commitments equals \$6.7 million for a 6.7 to 1.0 leveraging ratio.

The \$1 million of working capital is not counted for purposes of calculating the leveraging ratio. Inventory would likewise be excluded from calculation in the ratio.

§ 570.452 Distressed communities.

(a) *General.* Distressed communities are those cities and urban counties which meet the appropriate criteria of physical and economic distress as specified in this section. Cities participating in the Community Development Block grant program in cooperation with an urban county, as provided in § 570.105 (b)(1)(iii)(C), are potential applicants under this subpart if they meet the requirements of this section. Such cities may at the same time continue as cooperating units of government in the urban county's entitlement grant application. Towns and Townships, pursuant to § 570.3(e), may apply. Towns and townships which do not qualify under the closely settled requirement of that section may request that the Secretary waive this requirement.

(b) *Minimum standards of physical and economic distress.* (1) From time to time, HUD will publish in Notice form the specific minimum standards of physical and economic distress used in determining which cities and urban counties are potentially eligible applicants for action grant funds. These standards will be derived by using the best and most recent available data for the community as a whole, allowing for comparisons between cities and urban counties of the same size class in the following categories: (i) percentage of housing constructed prior to 1940, (ii) per capita income change, (iii) percentage of poverty, (iv) population growth lag/decline, (v) job lag/decline, and (vi) unemployment.

(2) Any city or urban county which no longer qualifies on the basis of distress due to a change in applicable data will have up to two calendar quarters to submit full applications following the announcement of that change. HUD will establish a date by which such applications will no longer be accepted and will publish the date in the Notice.

(c) *Large cities and urban counties.* (1) In order to qualify as distressed communities, large cities and urban counties must meet three of the six currently applicable minimum standards of physical and economic distress specified in paragraph (b) (1) of this section.

(2) If the city or urban county's percentage of poverty is less than one-half of the HUD established standard, then it must meet four of the six minimum standards.

(d) *Small Cities.* In order to qualify as distressed communities, small cities must meet the minimum standards of physical and economic distress for the categories appropriate to their size class as outlined below. Two size classes are used, based on the most recent population data estimated by the Bureau of the Census. One is for cities whose population is estimated to be at least 25,000 but not more than 50,000. The other is for cities whose estimated population is less than 25,000.

(1) Cities of less than 25,000 population.

(i) If the percentage of poverty is at least one-half of the HUD established standard the city must meet standards in three of the following four areas:

(A) Percentage of housing constructed prior to 1940.

(B) Per capita income change.

(C) Percentage of poverty.

(D) Population growth lag/decline.

(ii) If the percentage of poverty is twice the HUD established standard, the city must meet only one other minimum standard.

(iii) If the percentage of year-round housing units constructed prior to 1940 is twice the HUD established standard, the city must meet only the poverty standard.

(2) Cities of 25,000 population, but not greater than 50,000 population.

(i) Must meet the minimum standards in three of the following five areas:

(A) Percentage of housing constructed prior to 1940.

(B) Per capita income change.

(C) Percentage of poverty.

(D) Population growth lag/decline.

(E) Job lag/decline.

(ii) If the percentage of poverty is less than one-half of the HUD established standard, the city must meet all four other minimum standards.

(iii) If the percentage of poverty is twice the HUD established standard, the City must meet only one other minimum standard.

(iv) If the percentage of year-round housing units constructed prior to 1940 is twice the HUD established standard, the city must meet only the poverty standard.

§ 570.453 Eligible applicants.

(a) *Eligibility.* Cities and urban counties which qualify as distressed communities, pursuant to § 570.452 or Pocket of Poverty communities pursuant to § 570.466, by meeting the appropriate distress criteria must be determined eligible in order to submit a full application which will be considered for funding under the action grant program.

(1) *Pre-application request for a determination of eligibility.* Distressed

communities and Pocket of Poverty communities must request a determination of eligibility prior to submission of their first full application. The request for a determination of eligibility must be submitted to the appropriate HUD Area Office on Standard Form 424, as modified by HUD, at least 60 days prior to the deadline for submission of the full application (or at a later time as authorized by the Secretary pursuant to § 570.4). To qualify as an eligible applicant, a city or urban county must meet the requirements of paragraphs (a), (b) and (c) of this section.

(2) *Duration of Eligibility.* Once an applicant has been determined eligible, a preapplication need not be filed again; however, in order to remain eligible, the city or urban county must continue to demonstrate results in providing low- and moderate-income housing and equal opportunity in housing and employment as described in this section. Large cities and urban counties shall submit their most recent EEO-4 form by November 30 each year to the HUD Area Office. Small cities shall submit their most recent EEO-4 forms or recent comparable data by November 30 each year to the HUD Area Office. The Area Office will review this information along with other data concerning results in providing housing and equal opportunity described in paragraphs (b) and (c) of this section received by the Area Office.

(3) *Withdrawal of Eligibility.* Eligibility status may be withdrawn at any time if the distressed community or Pocket of Poverty community fails to continue to demonstrate results in providing housing or equal opportunity.

(b) *Results in Providing Housing.* In order to qualify, the distressed community or Pocket of Poverty community must demonstrate that it has achieved results in providing housing for persons of low- and moderate-income. Among the factors HUD will consider are the number of federally or other assisted housing units provided for low- and moderate-income households especially since 1974. Specifically, HUD will evaluate the distressed community's actions in implementing the proportional goals established in any HUD-approved Housing Assistance Plan as well as actions to provide such housing taken previous to the establishment of a Housing Assistance Plan. This evaluation would include a review of such local actions as the removal of impediments in local ordinances and land use requirements to the development of assisted housing, the formation of a local housing authority when necessary to carry out the

Housing Assistance Plan, the provision of sites for assisted housing when resources are available, and other actions appropriate for implementation of the Housing Assistance Plan. The actions of a city which previously participated in the community development block grant program as part of an urban county shall be considered with regard to the provision of assisted housing in accordance with the HUD-approved Housing Assistance Plan for the urban county. If the distressed community has never had a HUD approved Housing Assistance Plan, it must demonstrate that it previously has provided or assisted in the provision of housing for low- and moderate-income persons and families.

(c) *Results in Providing Equal Opportunity.* In order to qualify, the distressed community or Pocket of Poverty community must demonstrate that it has achieved results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. Among the factors which HUD will consider are: (1) The location and occupancy characteristics of federally or other assisted housing units provided for families, and the extent to which the use of these programs promotes and shows progress in promoting a greater choice of housing opportunity for low- and moderate-income persons in areas outside of low income and minority concentration; (2) whether the distressed community or Pocket of Poverty community is actively engaged in promoting housing choice in all of its neighborhoods through participation in an area-wide affirmative marketing effort, a New Horizons Fair Housing Assistance Project, or other fair housing actions designed to eliminate and prevent discrimination in the private housing market throughout the distressed community's or Pocket of Poverty community's jurisdiction; (3) whether relocation as a result of federally assisted programs has resulted in expanded housing opportunities for minorities outside areas of minority or low-income concentration; (4) whether the distressed community or Pocket of Poverty community is a participating jurisdiction in an approved Housing Opportunity Plan, where such plan includes the community's jurisdiction; (5) whether the distressed community's or Pocket of Poverty community's performance reports to HUD and/or the Equal Employment Opportunity Commission indicate significant progress in hiring, training, and promoting minorities and lower-income persons.

§ 570.454 Other actions which must be taken prior to submission of a full application.

(a) *Citizen Participation.* Prior to submission of a full application, the applicant must:

(1) prepare and follow a written citizen participation plan, which plan provides the opportunity for citizens to participate in the development of the application, with special attention to measures to encourage the statement of views and the submission of proposals by low- and moderate-income persons, minorities, and residents of blighted neighborhoods, and to scheduling hearings at times and locations which are convenient to all citizens including the handicapped.

(2) provide citizens with adequate information concerning the amount of funds available for proposed activities, the range of activities that may be undertaken, and other important program requirements.

(3) hold public hearings to obtain the views of citizens, of which at least one hearing concerns needs which may be dealt with under this subpart, and at least one hearing concerns the application prior to official action authorizing submission of the application.

(4) publish prior to each public hearing a notice in easily readable type in the non-legal section of newspapers of general circulation including minority and non-English language newspapers where they exist. Such notices shall indicate the time, date, place and procedures of the hearings and the topics to be considered. The notice of the urban development action grant hearing concerning needs under this subpart must be published as a separate agenda item if the meeting is also to consider needs for the Community Development Block Grant program.

(5) Nothing in these requirements however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of the urban development action grant program.

(b) *Environmental Assessment.*

(1) Cities and urban counties must have a level of clearance finding in accordance with § 58.15(d) of 24 CFR Part 58. Applications will not be accepted for funding consideration, unless a level of environmental clearance finding is made by the time of submission of the application. HUD encourages applicants requesting joint Federal funding to include the other involved agencies when distributing their notice of assessment.

(2) Cities and urban counties must comply with historic preservation identification and review procedures in accordance with § 58.24 of 24 CFR Part 58. Applicants are encouraged to consult with the State Historic Preservation Officer early in the planning process when a property of historical, archeological, or architectural significance may be involved.

(c) *Flood and Drainage Facilities.* If the project involves flood and drainage facilities, the application must include evidence that the requirements of § 570.607 have been satisfied. That is, the applicant must have submitted a request to an appropriate public agency for funds, received notification of rejection from that agency or notification that the funds are not available for at least 90 days, and the applicant must notify HUD of the results of this request.

(d) *Modified OMB Circular A-95 procedure for applications.* Applicants must comply with all procedures set forth in Part I of OMB Circular No. A-95 except as modified below. Those procedures also require that significant program changes or amendments submitted to HUD in accordance with § 570.460 shall be submitted to clearinghouses.

(1) *Notification.* Applicants shall submit a copy of the request for determination of eligibility to all appropriate State and areawide clearinghouses at the time the request is submitted to HUD. This shall serve as the Notification of Intent for the applicant's first application. HUD will provide clearinghouses with a copy of its notification to the applicant of its eligibility status. For all subsequent application submissions, applicants must follow the normal notification procedures set forth in Part I of OMB Circular No. A-95, with a copy forwarded simultaneously to the appropriate HUD Area Office.

(2) *Clearinghouse Review Period.* Unless the requirement is waived by a clearinghouse, applicants shall provide the clearinghouse a period of thirty-days to review the completed application and to transmit to the applicant any comments or recommendations, prior to submission of the application to HUD.

(3) *Comments.* The applicant shall transmit all comments with the application to HUD. In instances where comments are not received by the applicant within the thirty day period, the applicant shall include a statement indicating that the State and areawide clearinghouses were notified and no comments were received. Any comments received late shall be submitted to HUD immediately upon

receipt. The A-95 comments will be considered with the application through the review and selection process. If the A-95 review comments contain any findings of inconsistency with State, areawide, or local plans or noncompliance with environmental or civil rights laws, the applicant must state how it proposes to resolve the finding or state its justification for proposing to proceed with the project despite the findings developed through the A-95 review process.

§ 570.455 Eligible activities.

(a) Except as specified in § 570.456, grant assistance will be made available for any eligible activity specified in Subpart C which supports a commercial, industrial, or neighborhood project. If permissible under State and local law, the applicant may undertake activities outside of the applicant's jurisdiction where the benefits of the project accrue to the applicant.

(b) If an applicant requests assistance for an activity not eligible under Subpart C, then the applicant must demonstrate that the activity proposed is consistent with the objectives of revitalizing the applicant's economic base or reclaiming neighborhoods having excessive housing abandonment or deterioration. Among the factors HUD will consider in determining whether or not an activity ineligible, under Subpart C, will be funded are the following: The necessity of the activity in stimulating private investment in the proposed project; the amount of long-term employment accessible to low- and moderate-income persons and minorities generated by the proposed project; the degree of impact of the proposed project on the economic condition of the community; and the effectiveness of the proposed project as a stimulus to area revitalization.

New housing construction may be assisted if the applicant demonstrates, in addition to the factors specified above, that the proposed new housing is consistent with the applicant's community development and housing strategy and that other resources are not adequate.

§ 570.456 Ineligible activities and limitations on eligible activities.

(a) Large cities and urban counties may not use assistance under this subpart for planning the project or developing the application. However, they may use entitlement community development block grant funds for this purpose. Any small city which submits a project application which is selected for preliminary approval and for which legally binding commitments have been approved consistent with the terms of

the grant agreement and for which a release of funds pursuant to 24 CFR Part 58 has been issued may devote up to three (3) percent of the approved amount of its action grant to defray its actual costs in planning the project and preparing its application.

(b) Assistance under this subpart may not be used for public services as described in § 570.201(e).

(c) Except as specified herein, no assistance will be provided for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation does not significantly and adversely affect the level of unemployment or the economic base of the area from which such industrial or commercial plant or facility is to be relocated. However, moves within a metropolitan area shall not be subject to this provision.

§ 570.457 Relocation and land acquisition.

(a) *Application of the Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 (Uniform Relocation Assistance and Real Property Acquisition) apply to the acquisition of real property by any State agency (as defined at 24 CFR 42.85) for a project assisted under this subpart and to any displacement that results from such acquisition. More specific instructions about the applicability of the Uniform Act are contained in § 570.602(a).

(b) *Displacement not subject to the Uniform Act.* The provisions of this paragraph apply to activities not subject to the Uniform Act. HUD has determined that requirements identical to those set forth at 24 CFR Part 42, as modified by the following provisions of this paragraph, shall apply to each tenant (not an owner-occupant) who occupies the site of an activity.

(1) *Issuance of notice to residential tenant.*

(i) Within 30 days after preliminary funding approval is announced or at such later date agreed to by HUD, the applicant shall issue each residential tenant either a notice of displacement (described at § 42.205) that is effective immediately or a notice of right to continue in occupancy (described at § 42.207). If the tenant is not issued either of these notices within the prescribed time, he or she shall automatically be eligible for relocation assistance as described at 24 CFR 42.205(b).

(ii) Any tenant required by the owner to move from the property before

issuance of a notice as described under paragraph (b)(1)(i) of this section, but after submission of the action grant application to HUD, shall also be issued a notice of displacement, unless he or she was required to move because of his/her breach of an obligation under the terms and conditions of the tenancy. The notice shall be effective on the date the tenant vacated the property. If the tenant chooses to relocate again, the one-year period (see § 42.451(c)) within which the tenant must purchase/rent and occupy a replacement dwelling (if he or she chooses to relocate again) and the 18-month period for filing relocation payment claim(s) shall not begin until after the tenant has been provided a reasonable choice of opportunities to relocate to a comparable replacement dwelling. If the tenant does not choose to relocate again, he/she shall be given at least six months in which to file relocation payment claim(s).

(2) *Issuance of notice to nonresidential tenants.* Wherever the applicant, at its sole discretion, determines it would be equitable to provide relocation assistance to a non-residential tenant, it may issue the tenant a notice of displacement (described at § 42.205).

(3) *"Initiation of negotiations."* For purposes of determining eligibility for a replacement housing payment under Subpart G of 24 CFR Part 42, the effective date of the notice of displacement shall be considered to be the "initiation of negotiations."

(4) *Replacement housing payment.* A displaced residential tenant who meets the eligibility conditions at § 42.451 is entitled to a replacement housing payment to help him or her rent or buy a replacement dwelling. Any such tenant who chooses to buy a replacement dwelling is entitled to receive a downpayment assistance payment computed under § 42.455. Any such tenant who elects to rent a replacement dwelling is entitled to a rental assistance payment computed in accordance with § 42.453, unless a Public Housing Agency administering the Section 8 Existing Housing Program (24 CFR Part 882) determines, in accordance with the Section 8 eligibility criteria in 24 CFR Part 889 and selection criteria described in its Administrative Plan approved by HUD, that the displaced tenant can be issued a Certificate of Family Participation under that program. Assistance under the Certificate can only occur when (i) the tenant has voluntarily selected a replacement dwelling which meets the housing quality standards and other requirements of that program and (ii) the

landlord of the replacement dwelling unit is willing to participate in the program. If the tenant elects to rent a replacement dwelling that cannot be assisted under the Section 8 Existing Housing Program, he/she must be offered the rental assistance payment described at § 42.453. (If an eligible tenant voluntarily selects a rental unit that meets the Section 8 requirements and the owner is willing to participate in the Existing Housing Program but the tenant refuses the Section 8 assistance, the tenant is not entitled to a rental assistance payment. However, the tenant remains eligible for a moving expense payment computed as described at § 42.303 or § 42.353).

(5) *Maximum rent under notice of right to continue in occupancy.* A residential tenant who receives a notice of right to continue in occupancy (described at § 42.207) is assured, among other things, that he or she will have the right to occupy the property for a period of at least four years after the activity is completed. The terms and conditions of continued occupancy must be set forth in a lease which is offered to the tenant. The lease, including renewal options, if any, shall run for a continuous period of at least four (4) years. The rent under such lease shall be in accordance with this paragraph, and the other terms and conditions of the lease shall be as customary in the jurisdiction. In addition, the lease shall give the tenant the unilateral right to cancel the lease on thirty (30) days advance written notice if he or she wishes to vacate, unless State or local law requires a longer period. In order to benefit from the protections of this rule, the tenant must agree to enter into the lease within a reasonable period after completion of the activity. The procedures for an automatic notice of displacement described at § 42.205(b)(2) and § 42.207(a)(4) shall not apply. In addition, the provisions at § 42.207(a)(2) governing the tenant's maximum monthly housing cost (rent and estimated utility charges) during the four-year period are modified to read as follows:

(i) During the first year of the four-year period, the tenant's monthly housing cost shall be established at a level that does not exceed the greater of:

(A) Twenty-five percent (25%) of the gross income of all adult members of the household, or

(B) 105% of the tenant's monthly housing cost for the unit six months prior to issuance of the notice of right to continue in occupancy. However, this provision does not preclude the owner of the building from requiring the tenant to pay directly to the utility company the cost of utilities which are separately

metered after completion of the activity. The cost of any such separately metered, tenant-paid utilities shall be excluded from the 105% computation.

(ii) At the end of the first, second and third years, the monthly housing cost may be increased. The monthly increase, however, shall not exceed the sum of (A) the average monthly increase in the owner's costs for utility charges and property taxes over the previous year, plus (B) five percent (5%) of the monthly contract rent (exclusive of utility costs) charged during the prior year.

(6) *Waiver of right to continue in occupancy.* Nothing in these regulations shall prevent a fully informed tenant, who will not be required to relocate permanently, from waiving his/her right to be issued a notice of right to continue in occupancy. The waiver shall be in a format prescribed by HUD.

(7) *Ineligible tenants.* Under the following circumstances, the tenant is neither entitled to a notice of displacement nor a notice of right to continue in occupancy, nor will he or she receive relocation assistance.

(i) The action grant funded or non-action grant funded activity is limited to residential rehabilitation work for which the cost allocable to the tenant's unit does not exceed \$2,500 and the recipient determines that the tenant will not be required to move because of the rehabilitation. In a building of two or more units, the cost allocable to the tenant's unit included the pro rata share of the cost of work done to common elements of the property.

(ii) The tenant moves to the property after submission of the action grant application and is notified prior to occupancy about the proposal and its effect on him/her.

(c) *Responsibility of the Applicant.* The applicant is responsible for assuring compliance with the requirements of paragraph (b) of this section. To pay the cost of relocation assistance, including rental assistance payments, the applicant may use local public funds, action grant or entitlement community development block grant funds (24 CFR Part 570) or the applicant may secure a commitment from any participating party in the action grant program to provide the necessary funds. In order to use block grant funds, the applicant must adopt a written policy in accordance with 24 CFR 570.602(c). Where a notice of right to continue in occupancy is to be provided (see paragraph (b)(4) of this section), the applicant is responsible for making the participating party aware of its obligations.

§ 570.458 Full applications.

(a) *Application scope.* Applicants must submit a separate application for each proposed project as defined in § 570.451(f).

(b) *Scope of the proposed project.* Action grant projects are intended to attract new private investment for neighborhood, commercial or industrial developments that alleviate physical and economic distress. The proposed project must be able to be carried out in a timely fashion, which HUD generally expects not to exceed four years from the date of the announcement of preliminary approval. The applicant shall apply for action grant funds in an amount which, together with other public and private resources, will be adequate to complete the project without additional action grant funds. While a recipient may remain eligible for action grant funding for other projects, no additional funding will be available in the future to complete a project already approved. Should additional funding be required to complete a previously approved project, the applicant must provide such funding from another source such as entitlement funds (if the activities are eligible under Subpart C and meet the program benefit requirement under Subpart D), local general purposes funds, or other public or private resources.

(c) *Submission requirements.* Applications must be submitted on HUD forms and must consist of the following:

(1) Standard Form 424, prescribed by OMB Circular No. A-102 and the urban development action grant application.

(2) A community development plan and a Housing Assistance Plan, as specified in Subpart D of this chapter. An applicant's approved Community Development Program which is in effect is deemed incorporated in the application by reference. Small cities which do not have a Housing Assistance Plan in effect must submit a small cities single purpose Housing Assistance Plan and Community Development Program pursuant to Subpart F.

(3) A brief description of the applicant's urban development action grant program, which shall specify an action plan and strategy, summarizing how the proposed project meets the objectives of the strategy to alleviate physical and economic distress. This program—

(i) must be consistent with the HUD approved Community Development Program and the Housing Assistance Plan described in Subpart D or F as appropriate;

(ii) must be consistent with the Overall Economic Development Program and Plans (OEDP) required by the Public

Works and Economic Development Act of 1965, as amended, if the OEDP is applicant to the project area;

(iii) must be consistent with the Economic Development Strategy (EDS) when used by communities to meet planning requirements of the OEDP program of EDA and HUD; and

(iv) must describe unique opportunities to attract private investment to alleviate physical and economic distress within the applicable community.

(4) A description of the project to be undertaken, how the property involved is controlled, the nature of the project, the number and types of jobs to be created by the private participating parties, and the taxes to be generated. The applicant must substantiate the market and economic feasibility of each aspect of the proposed project and must assess the impact of the project in relation to similar existing industrial, commercial and residential uses within the applicant's jurisdiction. The applicant must identify the public and private participating parties in the proposed project and must clarify the relationship of each to the request for action grant funds. Information provided shall include proposed cost and methods of financing.

(5) A clear description of the use of the action grant funds and a justification for the amount.

(6) The status of environmental review of the proposed project, the steps taken to notify other involved federal agencies if joint funding is requested, and a proposed timetable for the completion of any required environmental actions as described in 24 CFR Part 58.

(7) Documentation of private and public commitments which are necessary for completing the project as outlined in § 570.451 may be in the form of a firm private, firm public or legally binding commitment between the applicant and the public and private entities. No application will be considered feasible and effective unless there is evidence of at least a firm private commitment and if necessary, a firm public commitment.

(8) A statement analyzing the impact of the proposed urban development action grant program on the residents of any affected residential neighborhood, particularly those containing low- and moderate-income persons and members of minority groups, and on the affected neighborhood.

(9) A summary of all proposed expenditures to be undertaken to complete the project and a breakdown of the individual public and private expenditures.

(10) A detailed schedule for accomplishing each part of the proposed project.

(11) Maps, aerial photos, site plans or other graphic descriptions of the applicant's jurisdiction, the location of the project, access to the project, surrounding land uses, and related property information. Site plans must show: (i) present conditions, land uses, and ownership, (ii) proposed private and public development including clear identification of where the action grant funds are proposed to be spent.

(12) Data on anticipated involuntary displacement and relocation of residents by household type, income level, and minority status and/or businesses displaced and jobs lost due to displacement. The following must be included: a description of the efforts made to minimize involuntary displacement, including an analysis of the feasibility of undertaking any rehabilitation of occupied properties in stages in order to minimize displacement; a description of the efforts which will be made to provide opportunities to low- and moderate-income and minority persons to relocate outside areas of low income and minority concentration; and of the opportunities to be provided to displaced persons and businesses to relocate within the project area.

(13) An analysis of the impact of the project on the special problems of low- and moderate-income persons and minorities.

(14) An employment plan to assure that the jobs created by the proposed project will be available to the long-term unemployed and underemployed. The use of job training programs and consultations with the CETA provider should be detailed.

(15) The record of the applicant in carrying out similar projects. If the applicant has no related experience, it should provide information concerning its abilities to successfully complete the project.

(16) Certifications. The applicant shall submit certifications, in such form as HUD may prescribe, providing assurances that:

(i) Prior to submission of its application, it has followed the citizen participation process explained in § 570.454(a).

(ii) The proposed project is consistent with the Community Development program, the Housing Assistance Plan, and, if applicable, the Overall Economic Development Program and Economic Development Strategy administered by the Department of Commerce (see paragraph (c)(3)(iii) of this section).

(iii) The applicant's chief executive officer and the private participating party must certify that in his or her opinion, the private development would not occur unless the public funding on which the development is based becomes available.

(iv) The applicant's chief executive officer must certify that the action grant funds will not substitute for local public funds which are available and which are committed by line item specified in the applicant's local budget to the project described in the action grant application.

(v) It possesses legal authority to apply for the grant and to execute the proposed program.

(vi) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

(vii) It has complied with all the requirements of OMB Circular A-95 as modified by 24 CFR 570.310 and that either:

(A) Any comments and recommendations made by or through clearinghouses are attached and have been considered prior to submission of the application; or

(B) The required procedures have been followed and no comments or recommendations have been received.

(viii) Its chief executive officer or other officer of the applicant approved by HUD:

(A) Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969, insofar as the provisions of such Act apply to 24 CFR Part 570;

(B) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such official.

(ix) It will comply with the regulations, policies, guidelines, and requirements of OMB Circular No. A-102, Revised, and Federal Management Circular 74-4 as they relate to the application, acceptance, and use of Federal funds under 24 CFR Part 570.

(x) It will administer and enforce the labor standards requirements set forth in 24 CFR 570.605 and HUD regulations issued to implement such requirements.

(xi) It will comply with all requirements imposed by HUD

concerning special requirements of law, program requirements, and other administrative requirements, approved in accordance with OMB Circular No. A-102, Revised.

(xii) It will comply with the provisions of Executive Order 11988, relating to evaluation of flood hazards, Executive Order 11990 relating to wetlands, and Executive Order 11288 relating to the prevention, control, and abatement of water pollution in accord with HUD regulation 24 CFR 55, when in effect.

(xiii) It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under 24 CFR Part 570 to comply with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1-1961 (R1971), subject to the exceptions contained in 41 CFR 101-19.604. The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(xiv) It will comply with:

(A) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

(B) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing; and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provisions of brokerage services.

(C) Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant

thereto (24 CFR 570.601), which provide that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under 24 CFR Part 570.

(D) Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with Federal assistance.

(E) Executive Order 11246, and the regulations issued pursuant thereto (41 CFR Chapter 60), which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. Contractors and subcontractors on Federal and federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training and apprenticeship. Such contracts, and subcontracts thereunder, shall include the required equal opportunity clause as set forth at 41 CFR § 60-1.4.

(F) Section 504 of the Rehabilitation Act of 1973, as amended, and any related rules and regulations. Section 504 provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(G) The Age Discrimination Act of 1975 and any related rules and regulations.

(xv) It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, and the HUD regulations issued pursuant thereto at 24 CFR Part 135, requiring that to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.

(xvi) It will:

(A) To the greatest extent practicable under State law, comply with Sections 301 and 302 of Title III (Uniform Real Property Acquisition Policy) of the Uniform Relocation Assistance and Real

Property Acquisition Policies Act of 1970 and will comply with Sections 303 and 304 of Title III, and HUD implementing instructions at 24 CFR Part 42; and

(B) Inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations at 24 CFR Part 42 and § 570.602(b).

(xvii) It will:

(A) Comply with Title II (Uniform Relocation Assistance) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD implementing regulations at 24 CFR Part 42 and § 570.602(a);

(B) Provide relocation payments and offer relocation assistance as described in Section 205 of the Uniform Relocation Assistance Act to all persons displaced as a result of acquisition of real property for an activity. Such payments and assistance shall be provided in a fair and consistent and equitable manner that insures that the relocation process does not result in different or separate treatment of such persons on account of race, color, religion, national origin, sex, or source of income;

(C) Assure that, within a reasonable period of time prior to displacement, comparable decent, safe and sanitary replacement dwellings will be available to displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex, or source of income; and

(D) Inform affected persons of the relocation assistance, policies, and procedures set forth in the regulations at 24 CFR Part 42 and 24 CFR § 570.602(a).

(xviii) It will comply with the special provisions of § 570.457 concerning the relocation of residential tenants not covered by the Uniform Act.

(xix) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(xx) It will comply with the provisions of the Hatch Act which limits the political activity of employees.

(xxi) It will give HUD and the Comptroller General through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the grant.

(xxii) It will insure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the program are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify HUD of the receipt of any

communication from the Director of EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

(xxiii) It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973. Pub. L. 93-234, 87 Stat. 975, approved December 31, 1973. Section 103(a) required, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

(xxiv) It will comply with the requirements for historic preservation identification and review set forth in Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), Executive Order 11593, and the Preservation of Archeological and Historical Data Act of 1966 (16 U.S.C. 469a-1, et seq.) by:

(A) Consulting with the State Historic Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places and to determine the effect of a proposed activity on such property (see 36 CFR 800.8) by the proposed action activity; and

(B) Complying with all requirements established by statute, existing regulations (36 CFR 800), or HUD implementing regulations which will take into account the effects upon such properties.

(xxv) It certifies that it has not knowingly and willfully made or used a document or writing containing any false, fictitious, or fraudulent statement or entry. 18 U.S.C. 1001 provides that whoever does so within the jurisdiction of any department or agency of the United States shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

(xxvi) It will follow the cost-effective energy efficiency (conservation) standards for rehabilitation of residential properties contained in the Appendix to the regulations issued under 24 CFR Part 39 for action grant funded and non-action grant funded activities.

(A) Thermal improvement of construction elements which would not be made accessible or become exposed during rehabilitation is not required.

(B) Energy conservation improvements not practical considering economic feasibility, program needs, and the materials and type of construction, may be eliminated.

(C) For mid-rise, high-rise and many low-rise multifamily projects, an energy audit must be carried out to identify and specify the energy and cost savings which are estimated to result from installing energy conservation measures.

(D) All measures determined to be cost effective, given loan term and interest rate, shall be accomplished, especially weatherstripping and caulking.

(xxvii) It will not, in carrying out the project, discriminate against any employee because of race, color, religion, sex, handicap, or national origin. It will take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The applicant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by HUD setting forth the provisions of this non-discrimination clause. The applicant will in all solicitations or advertisements for employees placed by or on behalf of the applicant state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, handicap or national origin. The applicant will incorporate the foregoing requirements of this paragraph in all of its contracts for project work, except contracts for standard commercial supplies or raw materials or contracts covered under subsection (c)(16)(xiv)(E) of this section, and will require all of its contractors for such work to incorporate such requirements in all subcontracts for work done with funds provided under 24 CFR Part 570.

(xxviii) It will comply with Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112).

(xxix) In carrying out the project, the recipient shall take affirmative action as described in Executive Order 12138 in support of women's business enterprise and shall prohibit actions or policies

which discriminate against women's business enterprise on the grounds of sex.

§ 570.459 Criteria for selection.

(a) *General.* Grant assistance will be made available in order to achieve a reasonable balance for the program as a whole among feasible and effective neighborhood, industrial and commercial projects. To be considered for project selection, a proposal must have a firm private commitment and a leveraging ratio of at least 2.5 to 1.0. If public funding is required by the project, then a firm public commitment is necessary to be considered for project selection.

(1) Each calendar quarter, HUD shall review all new proposals received and all proposals pending consideration and shall determine which among such proposals are both feasible and effective. Feasible and effective projects will be compared using the selection criteria of this section although neighborhood projects will only be compared with neighborhood projects.

(2) The nature and purpose of the proposed project will determine the extent to which each of the selection criteria in paragraphs (e) through (t) of this section will apply.

(b) *Requirements which must be met to be considered for project selection.*

(1) *A firm private commitment.* No projects will be funded under this subpart unless there is a firm private commitment to finance and carry out the proposed project. The private commitment must have a clear, direct relationship to the activities for which funding is being requested.

(2) *Leveraging ratio.* Each project considered for selection for funding must have a leveraging ratio of at least 2.5 to 1.0.

(3) *A firm commitment of public resources.* If a project requires a commitment of other public resources, then it must be a firm public commitment.

(c) *Selection of Projects for Preliminary Funding Approval: Large cities and urban counties.* Projects shall be selected on the following bases:

(1) As the primary criterion, the comparative degree of physical and economic distress among applicants, as measured by the differences in the factors set forth below, which shall be assigned the following relative weights: (i) The percentage of their total housing stock that was built prior to 1940: 0.5; (ii) The percentage of their total current population that was in poverty in 1970: 0.3; and (iii) The degree to which their population growth rate lags behind that of all metropolitan cities: 0.2.

(2) The comparative degree of physical and economic distress as measured by per capita income, unemployment, and job lag/decline, and

(3) The factors contained in paragraphs (e) through (u) of this section.

(d) *Selection of Projects for Preliminary Funding Approval: Small cities.* Projects shall be selected on the following bases:

(1) As the primary criterion, the comparative degree of physical and economic distress as measured by the distress standards in § 570.452(b)(2);

(2) the factors contained in paragraphs (e) through (u) of this section.

(e) *The impact of the proposed project on the employment base of the community.* In evaluating the employment impact of a proposed project, HUD will consider such factors as the net number of new permanent or temporary jobs to be created within the distressed community.

(1) Specifically HUD will consider whether the project includes a greater number of net new permanent jobs than other similar type projects. For example, a project creating 1,000 new permanent jobs requiring a million dollar investment of action grant funds will have an action grant cost of \$1,000 per job. A similar project having an action grant cost of \$10,000 per job will compare less favorably on this factor than the project having a \$1,000 cost per job. Job retention and construction jobs will receive some consideration but will be given less weight in selection than the creation of new permanent jobs.

(2) HUD will consider whether the project includes a greater percentage of low- and moderate-jobs than other similar projects.

(3) HUD will consider whether the project contains a greater number of jobs on a percentage basis for CETA eligible persons (the structurally unemployed, underemployed or for persons from low- and moderate-income households) than other similar projects.

(f) *The amount of the leveraging ratio.* In selecting projects for funding, HUD will consider whether the amount of private leverage to be generated by a given project is greater than that of other projects of the same type. In other words, the higher the leveraging ratio, the more likely it is that the project will be selected for preliminary approval. Recapture of Action Grant funds for a second use increases the private leverage thereby making a project more competitive.

(g) *The impact of the proposed project on the fiscal base of the community.* The fiscal impact of the proposed project

will be measured by the annualized increase in real estate and other taxes such as corporate, sales or income taxes accruing to the applicant's jurisdiction which the applicant will receive due to the proposed project.

In selecting projects for funding, HUD will consider whether a given project will generate a greater amount of net new annual tax revenues in relationship to the requested action grant amount than other projects. A project generating a \$500,000 annual increase in property taxes for a million dollar action grant investment will fare better on this factor than a project generating a \$100,000 increase in property taxes plus a \$50,000 increase in city sales tax for a \$2 million action grant investment. The respective ratios will be 50 cents per action grant dollar compared to 7.5 cents per action grant dollar. In addition, other revenues which the applicant will receive will be considered.

(h) *The impact of the proposed project on the physical conditions of the community.* (1) HUD will review each project to determine its effectiveness in alleviating physical distress within the community. HUD will also assess the impact of each project in relation to similar existing industrial, commercial and residential uses within the applicant's jurisdiction.

(2) In selecting projects for funding, HUD will consider whether the proposed project will restore and enhance the quality of the human environment and/or avoid and minimize adverse effects on the environment and on historic properties. HUD will also consider whether or not the private developments in a given proposal include, where possible, a minimum one percent of total development costs for expenditures on the arts, such as sculptures, murals, etc.

(3) The physical impact of the project will be measured by comparing the present physical development of the project area and other areas with the future improvements proposed in the action grant project. For example, the standard of the existing housing stock will be compared to what the housing stock should be upon completion of the action grant project. If the project is to make those public improvements necessary to attract private industry to the site, then HUD will review the project in terms of the current land use and the potential created by the location of the particular industry at this particular site. HUD will also review the proposal to ascertain that other necessary services are available to support the project. Applicants are expected to consider the quality of the design of the project.

(i) *The impact of the proposed project on the economic conditions of the community.* HUD will consider the effect of the project on the economic base of the community by evaluating such factors as the mitigation of the impact of a major military base closing and the degree to which the proposal will assist areas experiencing a loss of businesses, jobs, and population.

(j) *The likelihood of accomplishing the project in a timely fashion within the total resources which will be provided.* HUD will consider such factors as the status of land assembly, zoning, building permits, and preparation of any necessary historic preservation clearances, as well as the applicants administrative and legal capability for accomplishing the project. HUD will also consider the private participating parties' capability of completing the project within the proposed time schedule. Proposals will be considered to have a lesser degree of feasibility if they involve substantial additional planning, lengthy start-up time, or may be subject to major obstacles due to environmental or legal concerns. HUD expects projects to be completed within a four year period from the date of the announcement of preliminary funding approval.

(k) *The demonstrated performance of the applicant in carrying out housing and community development programs.* Performance shall be evaluated using such considerations as past compliance with HUD regulations and statutory requirements, progress in carrying out programs as planned, and the ability to complete programs in a timely fashion.

(l) *Extent of relocation caused by the project.* (1) Projects which will cause minimal involuntary displacement and disruption of occupants and jobs will be considered more favorably than those involving a substantial amount of involuntary displacement and disruption.

(2) If the project includes activities which generate relocation, HUD will consider how the applicant's relocation plans and processes, including any proposed relocation advisory services, are to operate and whether they provide the opportunity for those displaced to relocate outside areas of low-income or minority concentration.

(3) A project which involves the relocation of industrial and commercial facilities within the applicant's jurisdiction will be reviewed to determine the impact of the relocation on low- and moderate-income and minority persons.

(4) The extent to which displaced businesses and low- and moderate-income residents and minorities will be

given the opportunity to relocate to the project area upon completion will be considered.

(m) *Extent of citizen participation.* HUD will also consider the extent of citizen participation in the development and review of the application, as well as the provision of technical assistance to citizens' groups if such assistance has been requested and is appropriate.

(n) *Extent of minority business participation.* HUD will more favorably consider projects in which minorities are participants in the project. For example, they may be prime or subcontractors during development, major suppliers of construction goods, or equity investors, or they may participate in the project through leasing, ownership, or rehabilitation of property, on-going vendors and suppliers of goods and services, or as private participating parties.

(o) *Extent of assistance to be made available by the State.* HUD encourages the firm financial participation of the State in the project.

(p) *Extent of participation by other public entities.* HUD encourages other firm Federal financial participation such as SBA, EDA, and Farmers Home and will consider that participation in the selection of projects for funding.

(q) *Special or Unique Opportunity.* HUD will evaluate the extent to which the action grant program represents a special or unique opportunity to meet local priority needs which are consistent with the objectives of economic revitalization or reclamation of neighborhoods.

(r) *Extent of neighborhood impact.* HUD will more favorably consider those projects having a positive impact on the residents, particularly low- and moderate-income and minorities of the residential neighborhood in which the project is located, and on the neighborhood itself.

(s) *The impact of the proposed project on the special problems of low- and moderate-income persons and minorities.* The extent to which the proposed project eliminates or reduces the magnitude of the special problems of low- and moderate-income persons and minorities (e.g., the relative levels of unemployment and underemployment, discrimination in housing and employment, locational impaction, and lack of sufficient supportive services and facilities) will be considered. In making this determination, HUD will consider the benefits of the project to low- and moderate-income persons and minorities, such as the provision of employment or entrepreneurial opportunities, housing opportunities, or public or private facilities and

improvements. Location of the proposed project, when it is clearly relevant to the question of what groups benefit, will be considered as one of the factors in evaluating the effectiveness of the project in benefitting low- and moderate-income persons and minorities.

(t) *The impact of the proposed project in increasing energy efficiency or conserving scarce fuels.* HUD will more favorably consider those projects which will increase energy efficiency or conserve scarce fuels (measured in barrels of crude oil saved or the equivalent). All other factors being equal, however, an energy conservation or alternative energy project from a community which is making a serious effort to identify and reduce energy waste on a community-wide basis will be more favorably considered than a project from a community which is making no effort in this regard.

(u) *Secretary's determination that the project requires action grant funds.* Preliminary funding approvals will only be made if the Secretary determines

(1) that the assurances made by the chief executive officer of the applicant that the action grant funds will not substitute for local funds which are available and committed to the project by line item specified in the applicant's local budget pursuant to § 570.458(16)(iv);

(2) that in his/her opinion, the private development would not occur unless the public funding becomes available pursuant to § 570.458(16)(iii);

(3) that the statements made by the private participating parties, that but for the receipt of the public funds requested, this project would not be built; are satisfactory.

§ 570.460 HUD review and action on applications.

(a) *Submission and Review Schedule.* The following chart indicates dates for submission of pre-application requests for determination of eligibility, the full application, HUD review and consultation with the applicant, and the date by which the decision for preliminary approval will be made. Public announcements of preliminary funding approvals will be made shortly after the decision date.

Determination of eligibility (pre-application; SF-424) to be submitted by	Application period	Review period	Decision date
Metro cities:			
Nov. 30.....	Jan. 1-31.....	Feb. 1-Mar. 31.	Mar. 31.
Feb. 28.....	Apr. 1-30.....	May 1-June 30.	June 30.

Determination of eligibility (pre-application; SF-424) to be submitted by	Application period	Review period	Decision date
May 31.....	July 1-31.....	Aug. 1-Sept. 30.	Sept. 30.
Aug. 31.....	Oct. 1-31.....	Nov. 1-Dec. 31.	Dec. 31.
Small cities:			
Dec. 31.....	Feb. 1-28.....	Mar. 1-Apr. 30.	Apr. 30.
Mar. 31.....	May 1-31.....	June 1-July 31.	July 31.
June 30.....	Aug. 1-31.....	Sept. 1-Oct. 31.	Oct. 31.
Sept. 30.....	Nov. 1-30.....	Dec. 1-Jan. 31.	Jan. 31.

(1) HUD will accept applications from large cities and urban counties postmarked no later than the last day of the month during January, April, July, and October.

(2) HUD will accept applications from small cities postmarked no later than the last day of the month during February, May, August, and November.

(3) However, HUD encourages all cities and urban counties to submit their applications no later than the tenth day of the month in order to allow sufficient time for the community to enact suggestions made by HUD in preliminary reviews.

(4) Applications postmarked after the last day of the month in which they are to be submitted will not be considered until the following quarter.

(5) The original and one copy of the application must be submitted to the appropriate HUD Area Office and one copy submitted to HUD's Office of Urban Development Action Grants.

(b) *HUD Area Office Review.* Area Offices shall forward a copy of each application meeting the criteria of § 570.458 together with a position paper setting forth the Area Office comments and the Area Manager's recommendation to HUD Central Office. HUD Central Office shall evaluate applications on a comparative basis in accordance with the criteria for selection specified in § 570.459.

(c) *Central Office Action on Applications.* (1) Preliminary approval decisions will be made by HUD Central Office within two months after the deadline for submission of applications as shown in paragraph (a) of this section.

(2) Preliminary approval constitutes the first step in a process which may result in a signed grant agreement between the recipient and HUD and legally binding commitments between the recipient and the private sector. The terms of the preliminary approval are not finalized until the recipient and HUD

have executed a grant agreement setting forth the terms and conditions of the approved project and the responsibilities of all participating parties. Preliminary approval does not become final until legally binding commitments between the recipient and the private and public participating parties have been submitted and approved by HUD. Release of grant funds is contingent upon the recipient's meeting each and every condition set forth in the grant agreement.

(3) Any application not receiving preliminary funding approval in the first round in which it is accepted for consideration may be reconsidered for funding in the subsequent quarter, if HUD determines there is a likelihood that the project will be funded in the next funding quarter.

(4) Any application not receiving preliminary funding approval after the second round will not receive further consideration, unless HUD and the applicant are actively negotiating the terms of the project. HUD shall use its discretion in making a determination whether to consider the application in a later funding round.

(5) Shortly after the decision date for preliminary approval, the Secretary will notify the applicant in writing of the action taken on its application and if not approved, the conditions under which the application may be reconsidered.

§ 570.461 Post preliminary approval requirements.

(a) *Execution of a grant agreement.* HUD and the recipient must sign a legally binding grant agreement (contract) which finalizes the terms and conditions of the action grant preliminary approval.

(b) *Submission of legally binding private commitments.* Recipients must submit for approval to HUD Central Office evidence of legally binding commitments from participating parties identified in the grant agreement. Copies must also be submitted to the Area Office. Recipients must also submit an opinion of counsel that the commitments are legally binding under State and local law and conform to the grant agreement executed by HUD and the recipient. The drawdown of grant funds is conditions upon the written acceptance by HUD of the legally binding commitments as specified in the grant agreement.

(c) *Release of funds pursuant to HUD Environmental Review Procedures.* Recipients must comply with the provisions of § 570.603 concerning the release of funds for projects requiring environmental review. Except for administrative costs, environmental studies and certain relocation costs, no

costs which are to be reimbursed or paid with grant funds may be incurred until the environmental requirements have been met. However, the applicant should note that such costs will not be reimbursed if the legally binding commitments are not approved.

(d) *Performance according to schedule.* Action grant funding shall be conditioned upon the performance of the recipient in meeting the schedule set forth in its grant agreement. Failure to meet such schedule may result in the termination of the grant agreement or other remedial action.

(e) *Program Income.* Notwithstanding any other provisions of this part and unless otherwise provided in the grant agreement, program income received by the Recipient under this Subpart prior to completion of construction of all action grant funded activities shall be used to reimburse costs incurred for the Recipient activities. Such income shall be used instead of any draw under the letter of credit to the extent adequate to reimburse costs so incurred. Upon completion of the activities, program income shall be retained by the recipient and governed by the grant agreement. Program income received subsequent to the completion of the action grant funded activities shall be used for the purposes specified in the grant agreement, and as such is considered miscellaneous revenue, the use of which is not governed by the provisions of this part.

(f) *Reporting requirements.* Commencing upon the date the applicant's preliminary funding approval is announced by HUD, applicants shall submit quarterly progress reports as specified by the Secretary of HUD. Failure to file such reports may be a basis for termination of previously approved action grants and shall be considered in the selection of future projects submitted by the applicant under demonstrated performance under § 570.459(k). Copies of the reports shall be submitted to the HUD area office and simultaneously to the Office of Action Grants in HUD Central Office no more than 10 days following the end of each calendar quarter. Effective immediately, and until such time as further detailed reporting requirements are specified, the following information is to be provided:

(1) *Prior to approval of legally binding commitments and removal of contract conditions.* If project activities have begun, describe in detail each step the applicant has taken to secure the documentation needed to satisfy the conditions contained in the grant agreement. Also, describe those steps which remain to be taken and provide a schedule for their accomplishment. If

problems have been encountered and the project is falling behind the schedules included in the application and the grant agreement, describe the nature of the problems, the steps being taken to resolve them, and estimate the time which will be required to overcome the problems.

(2) *After approval of legally binding commitments and removal of contract conditions.* Describe in detail the implementation of the project including the status of construction contracts, plans and specifications, actual construction, temporary and permanent jobs, relocation of residents and tenants, etc. Also, include the amount of funding which has been obligated and the amount drawn down. If problems have been encountered and the project is falling behind the schedules included in the application and the grant agreement, describe the nature of the problems, the steps being taken to resolve them, and estimate the time which will be required to overcome the problems.

(3) *Project completion.* Reports will be required following the completion of construction of a project. They shall consist of information to be specified at a later date concerning the project's construction costs, its use of program income, tax revenues generated, etc. They shall also include data by job category and pay level, the number of jobs filled by unemployed and low income persons and by minorities.

§ 570.462 Incurring costs for project activities after preliminary approval.

(a) The use of grant funds is conditioned upon the Recipient incurring costs to be paid in accordance with the grant agreement or as otherwise approved by the Secretary in writing. The incurring of costs to be paid out of grant funds shall be governed by the following:

(1) Except for the cost of application preparation for small cities as specified in § 570.456(a), no costs incurred prior to the preliminary approval date may be paid out of grant funds.

(2) After the preliminary approval date, eligible administrative costs, including but not limited to costs of environmental studies, may be incurred before or after the effective date of the grant agreement (the date it is executed by the Recipient), and the satisfaction of environmental conditions.

(3) Except as permitted by 24 CFR Part 58, no other costs to be paid out of grant funds may be incurred by the recipient or any participating party until after the effective date of the grant agreement, all environmental conditions of 24 CFR Part 58 have been fully satisfied and the

Secretary has issued the environmental releases required by 24 CFR Part 58.

(4) After the recipient has satisfied all of the environmental conditions and the Secretary has issued the required environmental releases, then at any time after the preliminary approval date for the project, the recipient and the participating parties may incur eligible costs to be paid out of grant funds.

(b) The authorization to incur costs in subsection (a) above is not an authorization to reimburse those costs and does not mean or imply that such costs will be reimbursed out of grant funds. The recipient and participating parties may voluntarily, at their own risk, and upon their own credit and expense, incur costs as authorized in subsection (a) above, but their authority to reimburse or to be reimbursed out of grant funds shall be governed by the provisions of the grant agreement applicable to the payment of costs and the release of funds by the Secretary.

(c) Neither the Recipient nor any Participating Party shall incur any costs in connection with any activity to be paid for, in whole or in part, with grant funds, even though such costs will not be reimbursed out of grant funds, unless such costs could be incurred pursuant to subsection (a) of this Section if such costs were to be paid out of grant funds.

(d) Prior to the issuance by the Secretary of the environmental releases required by 24 CFR Part 58, the Recipient may not use any funds, including local funds, to take any action with respect to the Project where such action might have an adverse environmental effect, would limit choices among competing alternatives, or might alter the environmental premises on which the pending clearance is based in such a fashion that the validity of the conclusions to be reached would be affected.

(e) Any time after the Preliminary Approval Date, a Participating Party may incur costs for any activity which is not to be paid for, in whole or in part, with grant funds.

§ 570.463 Project amendments and revisions.

(a) *Pre-approval revisions to the application.* Applicants must submit to the HUD Area Office and to Central Office all revisions to the application. If the revisions are significant, i.e., if they alter the scope, location, or scale of the project or change the beneficiaries' population, the following procedures must be followed:

(1) The applicant must resubmit the application to state and areawide clearinghouses. Such agencies will have 30 days to review significant revisions.

If there is a question of significance, the applicant should consult directly with its clearinghouses.

(2) The applicant must hold at least one public hearing prior to making a significant revision to the application according to the procedures of § 570.454(a).

(b) *Post Preliminary Approval Amendments.* Applicants receiving preliminary approval must submit to the HUD Central Office, a request for approval of any significant amendment. A copy of the request must also be submitted to the Area Office. A significant amendment involves new activities or alterations thereof which will change the scope, location, scale, or beneficiaries of such activities or which, as a result of a number of smaller changes, add up to an amount that exceeds ten percent of the grant. HUD approval of amendments may be granted to those requests which meet all of the following criteria:

(1) New or significantly altered activities must meet the criteria for selection applicable at the time of receipt of the program amendment.

(2) The recipient must have complied with all requirements of this subpart including A-95 and citizen participation as specified in paragraph (a) of this section and the provisions of 24 CFR Part 58 concerning environmental reviews.

(3) The recipient may make amendments other than those requiring prior HUD approval as defined in paragraph (b) of this section but each recipient must notify both the Area and Central Offices of such changes.

§ 570.464 Applicability of rules and regulations.

The provisions of Subparts A, B, C, J, K, and O of this Part 570 shall apply to this subpart except to the extent that they are modified or augmented by this subpart.

2. § 570.910 is amended by adding at the end thereof a new paragraph (b)(11) to read as follows:

§ 570.910 Corrective and remedial actions.

(b) * * *

(11) In the case of action grants made under Subpart G, adjust, reduce or withdraw the grant, or take other action as appropriate in accordance with findings of reviews and audits made to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables except that funds already expended on otherwise eligible activities shall not be recaptured or deducted from future grants.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and Sec. 7(d), Department of House and Urban Development Act (42 U.S.C. 3535(d))).

Issued at Washington, D.C., October 9, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-34492 Filed 11-4-80; 8:45 am]

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24 CFR Part 570

[Docket No. R-80-759]

Community Development Block Grants; Modifications to Urban Development Action Grant Rules To Accommodate Communities Containing Pockets of Poverty

AGENCY: Office of Urban Development Action Grants, HUD.

ACTION: Final rule.

SUMMARY: This rule amends Part 570, Subpart G (urban development action grants) by adding a new § 570.466 which finalizes the requirements governing Urban Development Action Grants available to assist communities in revitalizing the economic base of their Pockets of Poverty.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Burke, Regions 1 and 4—(202/755-7362), Stanley Newman, Region 2—(202-755-6193), Harvey Zeiger, Regions 3 and 10—(202-755-0268), William Hammer, Region 5—(Illinois, Indiana, and Minnesota—(202-755-6035), and (Senior Development Officer, Michigan, Ohio, and Wisconsin—202/755-6284), Charles Kendrick, Regions 6 and 8—(202-755-5620), Wally May, Regions 7 and 9—(202-755-8227). (These are not toll free numbers. Address: Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 1980, the Department published in the *Federal Register* (45 FR 10740) an interim rule governing the Urban Development Action Grant program for communities eligible as Pockets of Poverty. The rule implemented the 1979 amendments made to Section 119 of the Housing and Community Development Act Amendments of 1974.

Interested parties were given until April 15, 1980 to comment. All comments

with respect to the interim rule were given careful consideration. As a result of 21 responses filed, the following changes are being made:

Section 570.466 Specific Provisions

Determining eligibility for communities containing pockets of poverty received the greatest number of comments. This paragraph specifies the requirements which must be met in order to qualify as an eligible Pocket of Poverty. One commentator wished HUD to incorporate into the rules a review and notification process for the pre-applications. As this is covered in another section of the Action Grant program rules, we refer readers to § 570.453.

Income and Poverty

A number of respondents focused on the income and poverty requirements for Pockets of Poverty. Following one suggestion, HUD is changing the language of paragraph (a)(2)(ii) to state that in order to meet the income requirements, at least 70 percent of the "families and unrelated individuals" residing in the Pocket of Poverty must have incomes below 80 percent of the jurisdiction's median. By specifying families and unrelated individuals, rather than residents, we believe that applicants will have a clearer perception of the type of data and analysis necessary to determine a community's eligibility. Three commentators suggested that HUD amend the income and poverty requirements by allowing the use of regional and subregional cost of living indices. While we believe that cost of living variations are important, HUD is constrained by the fact that such data is available for only a limited number of communities across the country. HUD is therefore unable to implement the practice for all communities without giving unfair advantage to those parts of the country for which such data is available.

One commentator believed that the poverty level threshold should be raised to 45 percent, while another believed that the percentage of persons required to meet the income test was too high. HUD notes that these percentages are established in the legislation. One commentator recommended that the exclusion of enumeration districts and block groups with income levels greater than 120 percent of the median was too restrictive. We, however, point out that this exclusion tightens the targeting of the direct benefits of a project to low and moderate income people as directed by the law.

Population

For cities of greater than 50,000, language was suggested which would better define the minimum population of a Pocket. HUD has amended paragraph (a)(2) to reflect these comments and to clarify a Pocket's size requirements. It should also be mentioned that the legislation establishing the criteria for population in urban counties made no distinction between urban and non-urban portions.

In the same vein, readers should note that the legislation established the minimal population size of a Pocket of Poverty within a city of under 50,000 population. One reader found that the use of census tracts was better in defining a Pocket although another suggested that the use of census tracts harm smaller cities as opposed to large. Pockets of Poverty can be defined by either census tracts, enumeration districts or block groups. However, all communities must exclude any enumeration district or block group which exceeds 120 percent of the jurisdiction's median income. All cities must use the Fifth Count Summary Tape to determine their Pocket of Poverty.

Use of Census Data

Several respondents said that 1970 Census data is out of date and that some method of verification of more recent and/or local data should be established, preferably where HUD makes the determination. The law specifies that data, other than Census data, must be verified by the U.S. Bureau of the Census. Although the Census Bureau is verifying only census produced data, the law is strict in determining that this is a Census Bureau responsibility. However, in order to aid communities in establishing a Pocket of Poverty, HUD has established new and more specific procedures to obtain the necessary documentation for a Pocket in paragraph (a)(4). The HUD Area Office will provide data to the cities upon request. Because of this new provision, Footnote 1 has been deleted from the rules.

Comparable Services

Although three readers recommended change or elimination of the comparable services requirement and procedure, four highly supported the provision as it stands. This requirement cannot be eliminated as it is required by statute.

Location of the Project.

One representative suggested that it would be helpful if a project located adjacent to the Pocket of Poverty could be within another jurisdiction. There is nothing in the regulations which would

prohibit the project being located on a site adjacent to the Pocket but within another jurisdiction so long as the Pocket of Poverty receives the direct benefits of the project. We refer the reader to § 570.455(a) and to paragraph (b) of this section.

Four respondents recommended that the rule be changed to allow the project to be located "near" rather than adjacent to the Pocket. We reference the statute, however, which states that the project may be located on a site "directly adjacent" to the Pocket. Finally, one letter takes issue with the requirement that the project may be allowed outside of the Pocket only if the project is economically infeasible or is harmful to the low and moderate income residents of the Pocket. It suggests that factors such as crime, the environment, access to public transportation, etc., should be considered. In certain appropriate instances, HUD may allow such factors to be considered in its analysis of the project's feasibility.

Provision of Local Matching Funds.

HUD is changing the language of paragraph (c)(2) in order to clarify the concept and the procedure for calculating the local match. One comment suggested that the local match was unnecessary as Pockets of Poverty communities have more stringent project requirements to meet than other Action Grant communities. Another recommended that the local match be included in the calculation of the project's leverage ratio. HUD responds that the requirement of a local match is a public commitment required as a threshold criteria by law and that it can in no way be considered a "firm private commitment" (See § 570.451(k) for the definition of the leverage ratio). Another respondent suggested that the applicant be allowed to use revenue bonds to fund the local match. HUD replies that a revenue bond is based on an income-producing property and that, as such, it is not strictly regarded as a public commitment. In response to this, however, we have included language in paragraph (c)(2) which clarifies that revenue bonds will not be acceptable as the local match.

Employment Opportunities.

Four respondents made a special point of supporting all of the employment criteria in paragraph (c)(3)(i) while a fifth singled out the requirement that 51 percent of the jobs be provided to low and moderate income residents of the pocket. Three comments recommended that the 75 and 51 percent factors for low and moderate income people be changed to goals

rather than requirements. Other points made on this paragraph ranged from the belief that a different mix of employment would prevent concentration of low and moderate income jobs to the belief that the requirements might discourage potential investors. We believe that the job criteria insures that the intent of the legislation—to directly benefit the low and moderate income residents of the Pocket—is fully implemented by these requirements. In keeping with this intent, new language has also been added to the regulation which further explains how HUD expects the requirements to be met in a project.

Tax increment.

Opinions on our policy on the use of the tax increment generated by a project ranged from the statement that the policy of encouraging its use in the Pocket went beyond the legislative intent to the statement that HUD should require, rather than simply encourage, the use of the tax increment in the Pocket. The stipulation is consistent with the statute particularly with respect to providing benefits to low and moderate income persons.

Criteria for Project Selection for Communities Containing a Pocket of Poverty.

Two commentators made the point that small city applications should compete only with small cities and large cities against only large. As that is the system which HUD has effected, we refer readers to § 570.460.

Among the factors which HUD will consider in selecting a project for funding is the extent to which low and moderate income minorities are employed in the project in excess of their proportion of the population of the Pocket of Poverty. One comment disagreed with this approach and suggested that cities should certify their intent to actively pursue minority employment without citing data. Our position, however, is that the Action Grant program is competitive and such self-certification would not provide the necessary information to evaluate one project against another. Furthermore, HUD believes that this language is not strong enough to encourage minority employment.

With respect to the selection factor on minority entrepreneurship and neighborhood support, all but one respondent supported the policy. Several suggested that HUD should provide a mechanism for strengthening the consideration of these factors. We, however, are relying on competitive nature of the program to assure

maximum minority entrepreneurship and neighborhood support.

Other Changes

A number of other technical changes have been made in the regulations. For example, we have revised all of the references to Subpart G to reflect the finalization of the proposed rules to the Action Grant program.

A finding of no significant impact under the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. The changes embodied in the regulation have been evaluated and have been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of governments. Copies of the findings are available for inspection and copy during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the delay of effective date required by Section 7(o)(3) of the Department of Housing and Urban Development Act.

This rule is not listed in the Department's semi-annual agenda of significant rules published pursuant to Executive Order 12221.

Accordingly, 24 CFR 570, Subpart G is amended by adding a new Section 570.466 to read as follows:

§ 570.466 Specific provisions for cities and urban counties containing pockets of poverty.

Action Grants may also provide funding for economic development and neighborhood revitalization projects targeted to severely distressed areas called Pockets of Poverty in communities which do not meet Action Grant Program distress criteria. Cities and urban counties eligible under this provision will not meet the minimum standards of physical and economic distress defined in § 570.452, but must meet the eligibility criteria of paragraph (a) of this section in this context, Action Grants for Pockets of Poverty projects are intended to provide increased public and private assistance principally and directly to aid the geographically defined Pocket of Poverty and its low- and moderate-income inhabitants through the provision of jobs, and a revitalized physical environment. Up to

but no more than, 20 percent of all Action Grant assistance made available after October 1, 1979 may be used for Pockets of Poverty. The following paragraphs set forth rules applying only to communities containing pockets of poverty. All other provisions of subpart G apply to these communities except as modified herein.

(a) *Determining Eligibility for Communities Containing Pockets of Poverty.*

(1) *Preapplication Request for a Determination of Eligibility.* Each applicant for Pockets of Poverty assistance must submit a request for a determination of eligibility to the appropriate HUD area office as specified in 570.453 and 570.454 and as modified here. In addition to meeting the criteria of this section, each applicant must have demonstrated reasonable results in providing housing for persons of low- and moderate-income explained in 570.453(b) must have achieved reasonable results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups as in 570.453(c) and each applicant must provide comparable services to and for Pockets of Poverty residents (see Paragraph (6) of this section).

(2) *Cities of above 50,000 Population or more and Urban Counties.* A city with a population over 50,000 or urban county which does not meet the minimum standards of physical and economic distress based on data for the community as a whole may qualify as an applicant for Action Grants if it contains a "pocket" consisting of a specifically defined geographic area meeting all of the following criteria:

(i) *Area.* The Pocket of Poverty must be an area composed of contiguous census tracts, enumeration districts or block groups. The defined geographic area must contain at least 10,000 persons or 10 percent of the jurisdiction's population. In other words, a city with a population of 100,000 or more must have a Pocket of at least 10,000. A city of less than 100,000 population must have a Pocket of at least 10 percent of its population. Enumeration districts and block groups with median income levels greater than 120 percent of the median income of the jurisdiction must be excluded in defining the Pocket Poverty.

(ii) *Income.* At least 70 percent of the families and unrelated individuals residing in the Pocket of Poverty must have incomes below 80 percent of the jurisdiction's median income.

(iii) *Poverty.* At least 30 percent of the residents residing in the Pocket of Poverty must have incomes below the

national poverty level pursuant to criteria provided by the Office of Management and Budget.

(3) *Small Cities below 50,000 Population.* A small city with a population below 50,000 which does not meet the minimum standards of physical and economic distress based on data for the community as a whole may qualify as an applicant for Action Grants if it contains a specifically defined geographic area meeting all of the following criteria:

(i) *Area.* The Pocket of Poverty must be an area defined by contiguous census tracts, enumeration districts, block groups, or other areas defined by the U.S. Bureau of the Census or for which data certified by the U.S. Bureau of the Census is available. The defined geographic area must contain at least 2,500 persons or 10 percent of the jurisdiction's population, whichever is more. Enumeration districts and block groups with median income levels greater than 120 percent of the median income of the jurisdiction must be excluded in defining the Pocket of Poverty.

(ii) *Income and Poverty.* Small cities must meet the criteria specified in (2)(ii) and (iii)

(4) *Use of Census Data in Documenting a Pocket of Poverty.* Applicants should use the 1970 Fifth Count Block Group/Enumeration District computer tape file available from Census summary tape processing centers and from the HUD Area Office, special Census surveys or data verified by the Census and should use comparable data from the 1980 Census as soon as it is available, to establish population, income and poverty levels.

(5) *Certification of the Preapplication Eligibility Data.* The applicant's chief executive officer must certify that to the best of his knowledge the Pocket of Poverty defined in the application meets the population, income and poverty criteria described in this paragraph (a) and that the data provided in the application to establish eligibility are true and correct.

(6) *Comparable Services.* The applicant's chief executive officer must certify in the preapplication request for a determination of eligibility that the applicant is now providing basic services (police, fire, road repair and sanitation) over which it has control to the designated Pocket of Poverty which are at least equivalent to the basic services which it provides to more affluent residential areas of its jurisdiction (areas similar in population numbers to the pocket but with median incomes above the jurisdiction's median income). The certification must indicate

that services in the pocket reflect adjustments based on needs resulting from the physical characteristics of the area (e.g., land use pattern, density, housing type).

(i) The preapplication should indicate that the applicant has on file data and analyses comparing basic services, over which it has control, provided to more affluent areas of the jurisdiction to the level and type of basic services which are provided to the Pocket of Poverty. To the extent practicable, the applicant must document that per capita expenditures are at least equivalent in the Pocket of Poverty when compared to the more affluent area. If comparisons of per capita expenditures of basic services are not practicable, the data and analyses on file should use similar units of measurement, which approximate per capita costs, to compare the level and type of basic services provided in the pocket to those provided in more affluent residential areas. For example, if the police department's standard for response to calls requesting assistance in the more affluent areas is "x" minutes, then the applicant must have documentation in its files that it provides the Pocket of Poverty at least this level of service. Similarly, if the standard for sanitation is "x" trash pickups in the more affluent areas, the applicant must have data and analyses in its file that demonstrate that it provides the Pocket of Poverty at least this level of service, etc.

(ii) The data and analyses on file must also indicate that the compared basic services reflect adjustments to the needs resulting from the physical characteristics of the Pocket of Poverty; they must reflect reasonable local efforts to adjust to the service needs resulting from such physical factors as density, housing types, and land use patterns. For example, a relatively high level of density in the pocket would be expected to generate more frequent trash pickups or shorter scheduled trips for trash pickups than in a lower density area.

(b) Location of the Project and Related Requirements for Communities Containing Pockets of Poverty.

The proposed project must be located within the severely distressed area defined in the eligibility criteria of paragraphs (a) (2) and (3). However, in limited instances, HUD will approve a project on a site directly adjacent to the Pocket of Poverty if the applicant demonstrates in the application that there is no other suitable site for the project in the Pocket of Poverty. To do this, the applicant must provide in the application data and analyses that indicate that the project would not be

economically feasible if located on a site in the pocket or that its location on a site in the pocket would cause harm to low- and moderate-income residents of the pocket and the area's overall physical and economic development. All assisted projects directly adjacent to the pocket must substantially contribute to the physical and economic development of the pocket, and must meet the minimum requirements described in (c).

(c) Application Submission Factors in Addition to Those of 570.458

(1) *General.* Applicants for Action Grants under the Pockets of Poverty provision must meet the requirements of this section in addition to those described in 570.458.

(2) *Provision of Local Matching Funds.* Applicants applying for Action Grants under Pockets of Poverty must make available a cash contribution, equal to 20 percent of the amount of the grant requested, to be used as a local match. The amount of the grant requested equals the amount of money which the private participating party states is necessary in order to build the project. The statement that "but for the receipt of the public funds requested . . ." is further described under "firm private commitment" in § 570.451(h). The local share is then calculated by taking 20 percent of the "but for" amount. Such funds may be derived from local funding sources, State funds or from any Federal program which permits the use of financial assistance to meet the non-Federal share requirement of Federal grant-in-aid programs. Revenue bonds, however, may not be used as the source of the local match.

(i) *Use of the Local Match.* The 20 percent share must be in cash and must be spent on direct costs resulting from the project and occurring because of the project. For example, the match may be used to provide sewer and water facilities required by the project or roads specifically needed by the project.

(ii) *Provision of a Firm Commitment of the Local Matching Funds.* If the source of the funds to be used as the match is from own source revenues or locally derived revenues, the chief executive officer must submit evidence with the application that a city or county council resolution or other appropriate action has been taken approving the allocation of these funds. If the source of such funds is a State or Federal agency which must approve their utilization, then a letter of commitment from that agency must be submitted with the application.

(3) *Direct Benefits to the Low- and Moderate-Income Inhabitants of the Pocket of Poverty.* Applicants must demonstrate that the proposed project

will provide direct benefits to the low- and moderate-income residents of the Pocket of Poverty and substantially contribute to the physical and economic development of the Pocket of Poverty, particularly those areas occupied by low- and moderate-income residents of the pocket of poverty. Applications must address the following categories of benefits and impacts.

(i) *Employment Opportunities.* The application must describe the number and, to the extent possible, the types of new jobs (construction and permanent) which will be provided to the low- and moderate-income residents of the Pocket of Poverty as a direct result of the proposed project. If the application calls for job training programs (such as those related to the CETA program) or job recruiting services for the pocket's residents, then such proposed activities must be clearly and fully explained.

HUD requires applicants to ensure that at least 75 percent of whatever permanent jobs initially result from the project are provided to low- and moderate-income persons and that at least 51 percent of whatever permanent jobs initially result from the project are provided to low- and moderate-income residents from the pocket. HUD encourages applicants to ensure that at least 20 percent of all permanent jobs are filled by persons from the pocket qualified to participate in the CETA program on a continuous basis.

HUD requires all applicants to continuously use best efforts to ensure that at least 75 percent of all permanent jobs resulting from any Action Grant-assisted project are provided to low- and moderate-income persons and that at least 51 percent of all permanent jobs resulting from any Action Grant-assisted project are provided to low- and moderate-income residents from the pocket. The application should clearly describe how the applicant intends to meet initial and continuous job requirements.

Applicants are referred to § 570.461(b) concerning legally binding commitments. Private participating parties must meet these employment requirements in the aggregate. To enable the private participants to do so, lease agreements executed by a private participating party shall include: (i) provisions requiring lessees to follow hiring practices which the private participating party has determined will enable it to meet these requirements in the aggregate and (ii) provisions which will enable the private participating party to declare a default under the lease agreement if the lessees do not follow such practices.

(ii) *Services and Physical Improvements.* If relevant, the application should describe the services and physical improvements to be provided by the project and their specific relationship to the needs of the low- and moderate-income inhabitants of the Pocket of Poverty.

(iii) *Repayment by Private Sector.* HUD requires the applicant to utilize proceeds from any repayment of Action Grant funds or local match funds by the private sector for the direct benefit of low- and moderate-income residents of the pocket's area.

(iv) *Tax Increment.* HUD encourages the applicant to allocate local revenues equal to a significant portion of the applicant's tax increment (net increase in property tax revenues over current revenues) resulting from the project to the Pocket of Poverty for economic or community development purposes within the pocket, particularly the areas occupied by low- and moderate-income residents of the Pocket of Poverty. The activities for which the funds may be used must directly benefit the low- and moderate-income residents of the Pocket of Poverty. The funds may not be used to meet comparable service requirements defined in (a)(7) or to substitute for applicant resources normally made available to the pocket's area or their residents.

(v) *Minority Entrepreneurs.* HUD encourages the applicant to provide opportunities for minority entrepreneurs, including minority entrepreneurs from the pockets, in all aspects of the project (planning, design, construction and operation of the project).

(vi) *Minority Jobs.* HUD encourages the applicant to provide job opportunity to low- and moderate-income minorities equivalent, at a minimum, to their proportion of the population in the pocket.

(d) *Criteria for Project Selection for Communities Containing Pockets of Poverty.*

(1) *General.* Applications from eligible Pockets of Poverty communities will be considered separately from those of distressed communities. However, each project submitted by jurisdictions eligible on the basis of its Pockets of Poverty must compare favorably on its own merits with any other Action Grant project to be selected for funding. Criteria for the selection of projects for preliminary funding approval are set forth in the first paragraph of § 570.459 as well as paragraphs (b) through (u) of § 570.459 with the additions and modifications set forth in paragraph (2) of this section.

(2) *Additional Factors for the Selection of Projects for Funding.* HUD

shall in each calendar quarter review all proposals received and pending consideration and shall determine which among such proposals shall receive preliminary funding approval on the following bases:

(i) The comparative degree of distress in the Pocket of Poverty as measured by the percent of residents below the national poverty level and the percent of residents with incomes below 80 percent of the median income.

(ii) The comparative degree of benefits to be provided to low- and moderate-income persons residing in the area. For example, given two equally feasible and effective proposals, HUD will select that proposal which provides the greatest overall benefits to low- and moderate-income persons living in the pocket of poverty.

(iii) HUD shall also consider;
(A) The extent to which the project provides jobs to CETA-eligible residents of the Pocket of Poverty;

(B) the extent to which a significant portion of the tax increment, or an equivalent thereof, is allocated for economic or community development purposes within the pocket for activities which directly benefit low- and moderate-income residents of the pocket;

(C) the extent to which low- and moderate-income minorities are employed in the project in excess of their proportion of the population of the Pocket of Poverty;

(D) the extent to which minority entrepreneurs, including minority entrepreneurs from the pocket, are provided opportunities to participate in all phases of the project; and

(E) the extent of support for the project from bona fide groups representing low- and moderate-income residents of the pocket and from pocket's residents themselves.

Authority.—Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C. on October 9, 1980.

Walter G. Farr, Jr.,

General Deputy Assistant Secretary, Office of Community Planning and Development.

[FR Doc. 80-34493 Filed 11-4-80; 8:45 am]

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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.

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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/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
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

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

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

FEDERAL COMMUNICATIONS COMMISSION

- 64950 10-1-80 / FM broadcast station in Bridgeport, Nebr.; changes in table of assignments
- 64950 10-1-80 / FM broadcast station in Middletown, Md.; changes in table of assignments
- 64951 10-1-80 / FM broadcast station in Petersburg, W. Va.; changes in table of assignments

Deadlines for Comments On Proposed Rules for the Week of November 9 through November 15, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

- 71571 10-29-80 / Cherries grown in Mich., N.Y., Wisc., Pa., Ohio, Va., W. Va., and Md.; proposed revision of interest rate; comments by 11-13-80

Animal and Plant Health Inspection Service—

- 67669 10-14-80 / Harry S. Truman Import Center, Procedures to be used for the allotment of quarantine space for cattle to be imported; comments by 11-13-80

- 60402 9-12-80 / Plant pests; Mediterranean fruit fly expansion of regulated area in Calif.; comments by 11-12-80

Federal Grain Inspection Service—

- 60407 9-12-80 / Barley standards inquiry to determine effectiveness and responsiveness to current marketing needs; comments by 11-12-80

- 60448 9-12-80 / Humane handling of livestock, withholding of water from animals for not more than 24 hours; comments by 11-12-80

[Republished with corrections at 45 FR 62477, 9-19-80]

COMMERCE DEPARTMENT

International Trade Administration—

- 59302 9-9-80 / Short supply controls; extension of deadline for applications to participate in the allocation of the export quota for unprocessed Western Red Cedar for FY 1981 and thereafter; comments by 11-10-80

National Oceanic and Atmospheric Administration—

- 72525 10-24-80 / Amendment to Fishery Management plans for Atlantic mackerel and butterfish; comments by 11-10-80
- 68412 10-15-80 / Atlantic tuna fisheries; conservation recommendations; comments by 11-14-80
- 71836 10-30-80 / Precious corals fishery management plan; comments extended to 11-15-80

[Originally published at 45 FR 60957, 9-15-80]

COMMODITY FUTURES TRADING COMMISSION

- 69248 10-20-80 / Commodity pool operator and trading advisor regulations; comment period extended to 11-14-80
- [See also 45 FR 51600 8-4-80 and 45 FR 65257, 10-2-80]

COMMUNITY SERVICES ADMINISTRATION

- 60954 9-15-80 / Civil Rights Program Requirements of CSA grantees; civil rights regulations; comments by 11-14-80

EDUCATION DEPARTMENT

- 59349 9-9-80 / Education Division General Administrative Regulations (EDGAR); Grant programs without specific regulations; comments by 11-10-80

ENERGY DEPARTMENT

- 71254 10-27-80 / Organization and functions of the Department of Energy; comments by 11-14-80
- Economic Regulatory Administration—
- 59818 9-10-80 / Modification of the entitlement benefit accorded naphtha imported into Puerto Rico and used as a petrochemical feedstock; comments by 11-10-80
- 61268 9-15-80 / Treatment of Alaska North Slope Crude Oil under the entitlement program; comments by 11-12-80
- [See also 45 FR 46752, 7-10-80 and 45 FR 31682, 5-13-80]

- Federal Energy Regulatory Commission—
- 69929 10-22-80 / Ceiling prices; high-cost gas produced from tight formations; comments by 11-10-80
- 69930 10-22-80 / Ceiling prices; high-cost gas produced from tight formations; comments by 11-14-80
- 68389 10-15-80 / Incremental pricing; revised alternative fuel price ceilings for Rhode Island (interim rule); comments by 11-10-80
- 70476 10-24-80 / Inquiry relating to affirmative action in accordance with section 604 of the Outer Continental Shelf Lands Act of 1978; comments period extended to 11-15-80
[See also 45 FR 49122, 7-23-80]

ENVIRONMENTAL PROTECTION AGENCY

- 68406 10-15-80 / Administrative Order to VEPCO's Chesterfield Generating Station requiring its Unit 4 Chesterfield Co., Va., to achieve compliance with air pollution requirements under Virginia State Implementation Plan by 6-1-82; comments by 11-14-80
- 67683 10-14-80 / Approval and Promulgation of Indiana State Implementation Plan; comments by 11-13-80
- 67397 10-10-80 / Arkansas Air Quality Implementation Plan; malfunctions upsets and continuous emission monitoring; comments by 11-10-80
- 65263 10-2-80 / Availability of Kentucky application for phase I interim authorization; comments by 11-10-80
- 68979 10-17-80 / Availability for review of Utah's application for interim authorization, phase I, hazardous waste management program; comments by 11-14-80
- 68980 10-17-80 / Availability for review of North Dakota's application for interim authorization, plan I, hazardous waste management program; comments by 11-14-80
- 60941 9-15-80 / Designation of areas for air quality planning purposes; Section 107 attainment status designations; comments by 11-14-80
- 65632 10-3-80 / Hazardous waste management; Mississippi application for interim authorization; comments by 11-11-80
- 67396 10-10-80 / Historical and cultural resources implementation of procedures for identification, protection and maintenance; comments by 11-10-80
- 67397 10-10-80 / Massachusetts Air Quality Implementation Plan; increase in sulfur-in-fuel content; comments by 11-10-80
- 64876 9-30-80 / Noise emission standards for transportation equipment interstate rail carriers; comments by 11-14-80
- 67686 10-14-80 / Oregon, Implementation Plan; comments by 11-13-80
- 67399 10-10-80 / Pesticide chemicals; malathion, proposed tolerance on flax seed and flax straw; comments by 11-10-80
- 60942 9-15-80 / Proposed removal of bis(chloromethyl) ether (BCME) from the Toxic Pollutant List; comments by 11-14-80
- 55066 8-18-80 / Proposed revisions to the National Ambient Air quality standards for carbon monoxide; comments by 11-10-80
- 55083 8-18-80 / Proposed revision of the National Ambient Air quality standards for carbon monoxide, comments by 11-10-80
- 68405 10-15-80 / Revision to the New York State Implementation Plan; comment period extended to 11-14-80
[See also 45 FR 54372; 8-15-80]
- 60930 9-15-80 / Submittal to satisfy condition on approval of the New York State implementation plans; comments by 11-14-80

FEDERAL COMMUNICATIONS COMMISSION

- 54786 8-18-80 / Amendment of Form 324, Annual Financial Report of Broadcast Stations; reply comments period extended to 11-14-80
- 35370 5-27-80 / FCC Form 324 Annual Financial Report of Broadcast Stations; reply comments by 11-14-80
- 58620 9-4-84 / FM Broadcast Stations in Columbia and Monroe City, Mo.; proposed changes in table of assignments; reply comments by 11-10-80
- 59908 9-11-80 / FM Broadcast Stations in Kennewick and Richland, Wash.; changes in table of assignments; reply comments by 11-13-80
- 58617 9-4-84 / FM Broadcast Station in Owingsville, Ky.; proposed changes in table of assignments; reply comments by 11-10-80
- 58626 9-4-80 / FM Broadcast Station in Orem, Utah; proposed changes in table of assignments; reply comments by 11-10-80
- 58615 9-4-80 / FM Broadcast Station in Rifle, Colo.; proposed changes in table of assignments; reply comments by 11-10-80
- 59361 9-9-80 / FM Broadcast Station in Walker, Minn.; table of assignments; reply comments by 11-13-80
- 55491 8-20-80 / FM quadrasonic broadcasting; comments by 11-10-80
- 54778 8-18-80 / Inquiring relating to radio operator licensing program; comments by 11-14-80
[See also 41 FR 22981, June 7, 1976; 42 FR 40939, Aug. 4, 1977]
- 64981 10-1-80 / TV Broadcast Station in Santa Barbara, Calif.; changes in table of assignments; comments by 11-14-80
- 69504 10-21-80 / Use of 12.5 kHz offset assignments in the 450-470 MHz band in the private land mobile radio services; reply comments by 11-15-80

FEDERAL MARITIME COMMISSION

- 67711 10-14-80 / Status of Bulk Commodities; comments by 11-13-80

FEDERAL RESERVE SYSTEM

- 66349 10-6-80 / Electronic fund transfers; proposed Official Staff Commentary; comments by 11-14-80

GENERAL SERVICES ADMINISTRATION

- 71628 10-29-80 / Government-wide automatic data processing management and procurement; comments by 11-14-80

HEALTH AND HUMAN SERVICES DEPARTMENT**Food and Drug Administration—**

- 67320 10-10-80 / Food additives; emulsifiers and/or surface active agents; objections by 11-10-80
- 60449 9-12-80 / Public hearings before advisory committees; annual report requirements; comments by 11-12-80

Health Care Financing Administration—

- 59734 9-10-80 / Prospective payment method for Medicare and Medicaid reimbursement of independent rural health clinics; comments by 11-10-80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT**Community Planning and Development, Office of the Assistant Secretary—**

- 59496 9-9-80 / Community development block grants; Innovative grants programs; clarification of program objectives and requirements for unsolicited proposals, solicited preapplications; interim rule; comments by 11-10-80
- 59306 9-9-80 / Community Development Block Grants and Urban Development Action Grants; comments by 11-10-80

- Federal Housing Commission—Office of Assistant Secretary for Housing and Office of Assistant Secretary for Policy Development and Research—
- 60390 9-11-80 / Condominium ownership mortgage insurance—existing multifamily housing demonstration; interim rule; comments by 11-10-80
- 59561 9-10-80 / Mutual mortgage insurance and insured home improvement loans; delivery of one-to-four family properties occupied by tenants or former mortgagors; revised criteria; interim rule; comments by 11-10-80
- 59589 9-10-80 / Prohibition of prepayment of mortgage which are assisted by way of Housing Assistance Payments Contracts during the term of the mortgage without the prior consent of the Commissioner; comments by 11-10-80
- 59502 9-9-80 / PHA-owned projects; uniform standards and procedures for determining the amounts of utility allowances and surcharges applicable to tenants of dwellings owned; interim rule; comments by 11-10-80
- 59309 9-9-80 / Section 8 Housing Assistance Payments Program, computation of gross family contribution; comments by 11-10-80
- INTERIOR DEPARTMENT**
Fish and Wildlife Service—
- 59909 9-11-80 / Endangered and threatened wildlife and plants; proposal to determine "isotria medeoloides" (small whorled pogonia) to be an endangered species; comments by 11-10-80
- 54682 8-15-80 / Determining hedeoma apicalatum (McKittrick pennyroyal) to be a threatened species with critical habitat; comments by 11-13-80
- 54685 8-15-80 / Review of 18 species of foreign reptiles for proposed listing as endangered or threatened; comments by 11-13-80
- Indian Affairs Bureau—
- 60923 9-15-80 / Heritage preservation; comments by 11-14-80
- JUSTICE DEPARTMENT**
Parole Commission—
- 60427 9-12-80 / Federal prisoners, parole supervision termination guidelines; comments by 11-14-80
- SMALL BUSINESS ADMINISTRATION**
- 68399 10-15-80 / Economic opportunity loans; interest rate; comments by 11-14-80
- 68398 10-15-80 / Handicapped assistance loans; interest rate; comments by 11-14-80
- TRANSPORTATION DEPARTMENT**
Coast Guard—
- 54095 8-14-80 / Great Lakes Bulk Dry Cargo Vessels, damage stability standards; comments by 11-12-80
- Federal Aviation Administration—
- 59897 9-11-80 / Petitions for rulemaking; National and Dulles International Airports; solicitation and leafletting procedures; comments by 11-10-80
- Federal Railroad Administration—
- 64191 9-29-80 / National Railroad Passenger Corporation (Amtrak); Informal rules of practice for passenger service; comments by 11-13-80
- TREASURY DEPARTMENT**
Internal Revenue Service—
- 60450 9-12-80 / Income taxes; nonresident aliens; election to be treated as a resident and U.S. income tax treaties; comments by 11-11-80
- Office of the Secretary—
- 68686 10-16-80 / Regulations governing practice before the Internal Revenue Service to set standards for providing of opinions used in promotion of tax shelters; comment period extended to 11-14-80

[See also 45 FR 58594, 9-4-80]

VETERANS ADMINISTRATION

- 68403 10-15-80 / Disaffirmation of election of improved pension by certain medicaid recipients; comments by 11-14-80

WAGE AND PRICE STABILITY COUNCIL

- 69207 10-20-80 / Anti-inflationary pay standards; questions and answers on extrapolation of the second-year standard; comments by 11-10-80

Deadlines for Comments On Proposed Rules for the week of November 16 through November 22, 1980**AGRICULTURE DEPARTMENT**

Agricultural Marketing Service—

- 69245 10-20-80 / Tomatoes grown in Fla.; handling regulations; comments by 11-19-80

Farmers Home Administration—

- 62432 9-19-80 / Rural Housing Loans and Grants; low-and moderate income limits adjustment, (Section 502); Comments by 11-18-80

Federal Grain Inspection Service—

- 61637 9-17-80 / Review of regulations concerning inspection and certification of certain agricultural commodities and products thereof under the Agricultural Marketing Act of 1946; comments by 11-17-80

Food and Nutrition Service—

- 66463 10-7-80 / Food stamp program; demonstration, research, and evaluation projects; comments by 11-17-80

Office of the Secretary—

- 61309 9-16-80 / Nondiscrimination on basis of age in programs or activities receiving Federal financial assistance; comments by 11-17-80

Rural Electrification Administration—

- 62431 9-19-80 / Telephone borrowers; coaxial drop and service entrance cable; (Bulletin 345-60); comments by 11-18-80

CIVIL AERONAUTICS BOARD

- 66473 10-7-80 / Air carriers; removal of certificate restrictions; comments by 11-17-80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

- 63286 9-24-80 / High seas salmon emergency regulations; comments 11-20-80

- 64995 10-1-80 / Permit application fees; comments by 11-17-80;

- 70523 10-24-80 / Modification of amendments to preliminary fishery management plan for Bering Sea and Aleutian Islands Groundfish Fishery; comments by 11-21-80

COMMODITY FUTURES TRADING COMMISSION

- 55469 8-20-80 / Contract market rules and practices for imposition and maintenance of price limits; comments by 11-18-80

DEFENSE DEPARTMENT

National Security Agency—

- 68686 10-16-80 / Policies and procedures for obtaining information from financial institutions; comments by 11-17-80

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

- 68641 10-16-80 / Proposed phaseout of finders fees; comments by 11-17-80

EDUCATION DEPARTMENT

- 62856 9-22-80 / Arts in education program; comments by 11-21-80

- 62859 9-22-80 / Law-related education program; comments by 11-21-80

ENERGY DEPARTMENT

Economic Regulatory Commission—

- 62478 9-19-80 / East Coast Residual Fuel Oil Entitlements, extension of domestic crude oil allocation program; comments by 11-18-80

ENVIRONMENTAL PROTECTION AGENCY

- 68978 10-17-80 / Air quality attainment status redesignation, Ohio; comments by 11-17-80
- 69482 10-21-80 / Approval and promulgation of implementation plans; State of Vermont; lead State implementation plan; comments by 11-20-80
- 70000 10-22-80 / Approval and promulgation of implementation plans; Ga.: Alternative compliance schedules for Volatile Organic Compound (VOC) sources; comments by 11-21-80
- 7004 10-22-80 / Approval and promulgation of implementation plans; Maricopa County Urban Planning Area Nonattainment Area Plan and Regulations in the State of Arizona; comments by 11-21-80
- 70006 10-22-80 / Designation of areas for air quality planning purposes; Alabama: proposed redesignation for Morgan County; comments by 11-21-80
- 68692 10-16-80 / National Ambient Air Quality Standard; attainment status redesignation for Fitchburg, Mass.; comments by 11-17-80
- 62172 9-18-80 / Proposed disapproval of portion of New York State implementation plan; comment period extended to 11-17-80
- 68979 10-17-80 / Submission for approval of Interim Authorization Plan Phase I, Louisiana; comments by 11-17-80
[See also 45 FR 33063, 5-19-80]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- 62728 9-19-80 / Revision of Guidelines on Discrimination Because of National Origin; comments by 11-18-80

FEDERAL DEPOSIT INSURANCE CORPORATION

- 62480 9-19-80 / Securities of insured nonmember State banks; comments by 11-18-80

FEDERAL COMMUNICATIONS COMMISSION

- 55777 8-21-80 / Common carrier services; MTS and WATS market structure; interstate telecommunications services entry policy, and Alaska submarket inquiry; reply comments by 11-17-80
- 63516 9-25-80 / Conversion of radiation patterns for AM broadcast stations; comments by 11-17-80
- 64991 10-1-80 / FM broadcast stations in Bath and Hammondsport, N.Y.; changes in table of assignments; comments by 11-20-80
- 64993 10-1-80 / FM broadcast station in Blairsville, Pa.; changes in table of assignments; comments by 11-20-80
- 64984 10-1-80 / FM broadcast stations in Brookville and Versailles, Ind.; changes in table of assignments; comments by 11-20-80
- 63533 9-25-80 / FM broadcast station in Casper, Wyo.; changes in table of assignments; comments by 11-17-80
- 64994 10-1-80 / FM broadcast station in Denison, Tex.; changes in table of assignments; comments by 11-20-80
- 63532 9-25-80 / FM broadcast stations in Farmville and Appomattox, Va.; changes in table of assignments; comments by 11-17-80
- 64988 10-1-80 / FM broadcast station in Hastings, Nebr.; changes in table of assignments; comments by 11-20-80
- 64985 10-1-80 / FM broadcast station in Hays, Kans.; changes in table of assignments; comments by 11-20-80
- 63531 9-25-80 / FM broadcast station in Madras, Oreg.; changes in table of assignments; comments by 11-17-80
- 64990 10-1-80 / FM broadcast station in McCook, Nebr.; changes in table of assignments; comments by 11-20-80
- 63530 9-25-80 / FM broadcast station in Munising, Mich.; changes in table of assignments; comments by 11-17-80

- 70922 10-27-80 / FM broadcast stations in Puerto Rico, reply comment period extended to 11-20-80
[See also 45 FR 58624, 9-4-80]
- 64981 10-1-80 / FM broadcast station in Visalia, Calif.; changes in table of assignments; comments by 11-20-80
- 70920 10-27-80 / Radio broadcasting financial reporting requirements; comment period extended to 11-17-80
[See also 45 FR 35370, 5-27-80 and 45 FR 54786, 8-18-80]
- 65637 10-3-80 / Radio stations, table of assignments; FM broadcast station in International Falls, Minn.; comments by 11-17-80
- 64983 10-1-80 / TV broadcast station in Fort Pierce, Fla.; changes in table of assignments; comments by 11-20-80
- 64987 10-1-80 / TV broadcast station in Paintsville, Ky.; changes in table of assignments; comments by 11-20-80

FEDERAL HOME LOAN BANK BOARD

- 63498 9-25-80 / Procedure for insured institutions to make available neutral lists of providers of settlement services; comments by 11-18-80

FEDERAL TRADE COMMISSION

- 68920 10-17-80 / Home insulation, labeling and advertising; staff compliance guidelines; comments by 11-17-80
[Corrected at 45 FR 71354, 10-28-80]
- 6300 9-23-80 / "Mobil 1"; consent agreement with analysis to aid public comment; comments by 11-21-80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing—Federal Housing Commissioner—

- 62316 9-18-80 / Change to minimum property standards (MPS) for one- and two-family dwellings; comments by 11-17-80
- 62149 9-18-80 / Establishment of maximum limit on total Development Cost of low-income public housing and Indian housing projects; comments by 11-17-80
Federal Housing Commissioner—Office of Assistant Secretary of Housing—
- 62795 9-22-80 / Preference for displaced families; eligibility of cooperative housing units and existing condominium units; comments by 11-21-80
Neighborhoods, Voluntary Associations and Consumer Protection, Office of the Assistant Secretary—
- 61572 9-16-80 / Housing Counseling Program; comments by 11-17-80

INTERIOR DEPARTMENT

Hearings and Appeals Office—

- 61322 9-16-80 / Indian Appeals Board probate proceedings; comments by 11-17-80
Office of the Secretary—
- 66370 10-6-80 / Employee responsibilities and conduct; comments by 11-20-80
Surface Mining Reclamation and Enforcement Office—
- 61120 9-15-80 / Surface coal mining and reclamation under Federal Program for Georgia; comments by 11-21-80

INTERSTATE COMMERCE COMMISSION

- 68973 10-17-80 / Revision of waybill analysis of transportation of property—railroads; comments by 11-17-80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

- 65625 10-3-80 / Virginia State Plan; petitions for withdrawal of approval; comments by 11-17-80

NUCLEAR REGULATORY COMMISSION

- 65247 10-2-80 / Licensing requirements for pending construction permit and manufacturing license applications; comments by 11-17-80

SECURITIES AND EXCHANGE COMMISSION

- 68965 10-17-80 / Proposed availability of simplified registration form to certain mining companies; comments by 11-21-80

TRANSPORTATION DEPARTMENT

Coast Guard—

- 65480 10-2-80 / Administration of Deepwater Port Liability Fund; comments by 11-17-80

TREASURY DEPARTMENT

Internal Revenue Service—

- 62848 9-22-80 / Income tax, common trust funds; comments by 11-21-80
- 62496 9-19-80 / Income taxes; energy property investment credit; comments by 11-18-80
- National Highway Traffic Safety Administration—
- 68694 10-16-80 / New performance requirements for padding and buckles used in child restraint system; comments by 11-17-80

Next Week's Meetings**AGRICULTURE DEPARTMENT**

Forest Service—

- 67115 10-9-80 / Black Hills National Forest Grazing Advisory Board, Custer, South Dakota, (open) 11-12-80
- 63539 9-25-80 / Los Padres National Forest Grazing Advisory Board, Santa Maria, Calif. (open), 11-14-80
- 70290 10-23-80 / Modoc National Forest Grazing Advisory Board, Alturas, Calif. (open), 11-13-80
- 71405 10-28-80 / National Forest System Advisory Committee, Santa Fe, N.M. (open), 11-12 through 11-14-80

ARMS CONTROL AND DISARMAMENT AGENCY

- 65266 10-2-80 / General Advisory Committee, Washington, D.C. (closed), 11-13 and 11-14-80

ARTS AND HUMANITIES NATIONAL FOUNDATION

- 71450 10-28-80 / Humanities Advisory Committee, National Council, Washington, D.C., (partially open), 11-13 and 11-14-80
- 71868 10-30-80 / Museum Panel (General Services to the Field, Museum Training), Washington, D.C. (closed), 11-14-80

CIVIL RIGHTS COMMISSION

- 66827 10-8-80 / Hawaii Advisory Committee, Honolulu, HI. (open), 11-15-80
- 70037 10-22-80 / New Jersey Advisory Committee, New Brunswick, N.J. (open), 11-13-80
- 67713 10-14-80 / New York Advisory Committee, New York, N.Y. (open) 11-14-80
- 70037 10-22-80 / Wyoming Advisory Committee, Casper, Wyoming (open), 11-15-80

COMMERCE DEPARTMENT

International Trade Administration—

- 69526 10-21-80 / President's Export Council, Washington, D.C. (open), 11-12-80
- 69277 10-20-80 / Mid-Atlantic Fishery Management Council, Long Island, N.Y. (open), 11-12 through 11-14-80
- 69277 10-20-80 / Pacific Fishery Management Council, Scoping Meeting, Portland, Oreg. (open), 11-13-80
- 65646 10-3-80 / Western Pacific Fishery Management Council, Honolulu, Hawaii (partially open), 11-12 and 11-13-80

DEFENSE DEPARTMENT

Air Force Department—

- 70297 10-23-80 / USAF Scientific Advisory Board, Eglin Air Force Base, Fla. (closed), 11-12 and 11-13-80

Army Department—

- 69536 10-21-80 / Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Medical Chemistry, Washington, D.C. (partially open), 11-14-80
- 69536 10-21-80 / Army Science Board, Fort Leavenworth, Kans. (open), 11-13 and 11-14-80

Engineer Corps Army Department—

- 70539 10-24-80 / National Waterway Study, Arlington, Va. (open), 11-13-80

Navy Department—

- 70039 10-22-80 / National Research Advisory Committee, Washington, D.C. (closed), 11-13 and 11-14-80

Office of the Secretary—

- 65019 10-1-80 / Defense Intelligence Agency Advisory Committee, Rosslyn, Va. (closed), 11-13 and 11-14-80
- 69537 10-21-80 / Defense Science Board Task Force on ECM, Washington, D.C. (closed), 11-12 and 11-13-80
- 62177 9-18-80 / DOD Wage Committee, Washington, D.C. (closed) 11-12-80

EDUCATION DEPARTMENT

- 70303 10-23-80 / Asbestos Hazards School Safety Task Force, Washington, D.C. (open), 11-12-80
- 70966 10-27-80 / Community Education Advisory Council, Louisville, Ky. (open), 11-12 and 11-13-80
- 70967 10-27-80 / Intergovernmental Advisory Council on Education Denver, Col. (open), 11-12 and 11-13-80
- 70967 10-27-80 / Intergovernmental Advisory Council on Education; Administration Rules and Budget; Council Priorities and Work Agenda; and Search Subcommittees, Denver, Colo., (open) 11-12-80
- 70040 10-22-80 / National Advisory Council on Women's Educational Programs, Washington, D.C. (open), 11-11-80 and 11-12-80

[Changed at 45 FR 71842, 10-30-80]

ENERGY DEPARTMENT

- 69288 10-20-80 / Local Government Energy Policy Advisory Committee and Subcommittee, Washington, D.C. (open), 11-13 and 11-14-80
- 69287 10-20-80 / National Energy Extension Service Advisory Board, Washington, D.C. (open), 11-12 and 11-13-80
- 65392 10-21-80 / National Energy Transportation Study, Seattle, Wash., 11-14-80

[Changed at 45 FR 70370, 10-23-80]

Bonneville Power Administration—

- 70043 10-22-80 / Dickey-Lincoln School Lakes Transmission Project (open) Littleton, N.H., 11-12 and Plymouth, N.H. 11-13-80

Conservation and Solar Energy Office—

- 68749 10-16-80 / Automotive Technology Development Contractor Coordination, Dearborn, Mich., (open), 11-11 through 11-14-80

Energy Research Office—

- 69286 10-20-80 / High Energy Physics Advisory Panel, Washington, D.C. (open), 11-9 through 11-11-80

ENVIRONMENTAL PROTECTION AGENCY

- 71415 10-28-80 / Clean Air Scientific Advisory Committee of the Science Advisory Board, Washington, D.C. (open), 11-13 and 11-14-80
- 68463 10-15-80 / Management Advisory Group to the Municipal Construction Division, St. Louis, Mo. (open), 11-12, 11-13, and 11-14-80

FEDERAL COMMUNICATIONS COMMISSION

- 70976 10-27-80 / Radio Broadcasting Advisory Committee, Technical and Allocations Subgroups, Washington, D.C. (open), 11-13-80

- 70315** 10-23-80 / Radio Technical Commission for Marine Services, Special Committee No. 75, Linthicum Heights, Md. (open), 11-12-80
- 70315** 10-23-80 / Radio Technical Commission for Marine Services, Special Committee No. 76, Washington, D.C. (open), 11-12-80
- FEDERAL PREVAILING RATE ADVISORY COMMITTEE**
- 70568** 10-24-80 / Washington, D.C. (open), 11-13-80
- HANDICAPPED NATIONAL COUNCIL**
- 70624** 10-24-80 / Washington, D.C. (open), 11-13 and 11-14-80
- HEALTH AND HUMAN SERVICES DEPARTMENT**
- Center for Disease Control—
- 70133** 10-22-80 / Safety and Occupational Health Study Section, Rockville, Md. (open and closed), 11-12 through 11-14-80
Food and Drug Administration—
- 67466** 10-10-80 / Antimicrobial Panel: Rockville, Md., 11-14-80; Bethesda, Md. 11-15-80, (both sessions open)
[See also 45 FR 62557, 9-19-80]
- 69556** 10-21-80 / Miscellaneous Internal Drug Products Panel, Silver Spring, Md. (open), 11-15 and 11-16-80
- 70572** 10-24-80 / Obstetrics—Gynecology Device Section of the Obstetrics—Gynecology and Radiologic Devices Panel, Washington, D.C. (open), 11-10-80
Health Services Administration—
- 68465** 10-15-80 / Cancer Clinical Investigation Review Committee, Bethesda, Md. (partially open), 11-11 and 11-12-80
- 68464** 10-15-80 / Maternal and Child Health Research Grants Review Committee, Rockville, Md. (open), 11-12 through 11-14-80
National Institutes of Health—
- 63145** 9-23-80 / Animal Resources Review Committee, Boston, Mass. (open and closed), 11-14-80
- 62561** 9-19-80 / Clinical Cancer Program Project and Cancer Center Support Review Committee, Cancer, Center Support Review Subcommittee, Bethesda, Md. (partially open), 11-13-80, (closed) 11-14-80
- 62561** 9-19-80 / Cytology Automation Committee Bethesda, Md. (partially open), 11-13-80, (closed) 11-14-80
- 68466** 10-15-80 / General Research Support Review Committee, Bethesda, Md. (partially open), 11-13 and 11-14-80
- 59205** 9-8-80 / Metallobiochemistry Study Section, Rosslyn, Va. (partially open), 11-13 through 11-15-80
- 62562** 9-19-80 / National Heart, Lung, and Blood Institute, Board of Scientific Counselors, Bethesda, Md. (partially open) 11-13 and 11-14-80
- 64270** 9-29-80 / Neurological Disorders Program—Project Review A Committee, Bethesda, Md. (partially open), 11-9 through 11-11-80
- 58207** 9-2-80 / Population Research Committee, Bethesda, Md. (partially open), 11-13 and 11-14-80
- 65319** 10-2-80 / President's Cancer Panel, Bethesda, Md. (open), 11-12-80
- 71864** 10-30-80 / Sickle Cell Disease Advisory Committee, Bethesda, Md. (open), 11-14-80
- 68467** 10-15-80 / Vision Research Program Committee, Bethesda, Md. (open and closed), 11-13-80
- 59205** 9-8-80 / Visual Sciences B Study Section, Washington, D.C. (partially open), 11-15 through 11-18-80
- INTERIOR DEPARTMENT**
- Fish and Wildlife Service—
- 69563** 10-21-80 / Phoenix/Lower Gila Resource Areas Grazing Advisory Board, Phoenix, Ariz. (open), 11-12-80
- 69051** Land Management Bureau—
10-17-80 / Anchorage District Advisory Council, Anchorage, Alaska (open), 11-13-80
- 63559** 9-25-80 / Ely District Multiple Use Advisory Council, Ely, Nev. (open), 11-13-80
- 69053** 10-17-80 / Medford District Advisory Council, Medford, Oreg. (open), 11-14-80
- 63554** 9-25-80 / Miles City District Grazing Advisory Board, Miles City, Mont. (open), 11-12-80
- 70323** 10-23-80 / Multiple Use Advisory Council, Butte, Mont. (open), 11-12 and 11-13-80
- 69053** 10-17-80 / Spokane District Advisory Council, Spokane, Wash. (open), 11-12-80
National Park Service—
- 70985** 10-27-80 / Cape Cod National Seashore Advisory Commission, Wellfleet, Mass. (open), 11-14-80
- 70985** 10-27-80 / Ozark National Scenic Riverways, environmental assessment for general management plan; Eminence, Mo., 11-10-80; Van Buren, Mo., 11-11-80; St. Louis, Mo., 11-12-80; Columbia, Mo., 11-13-80; Independence, Mo., 11-14-80 (all sessions open)
- 69567** 10-21-80 / Santa Monica Mountains National Recreation Area Advisory Commission, Woodland Hills, Calif. (open), 11-13-80
- INTERNATIONAL DEVELOPMENT COOPERATION AGENCY**
- 58266** 9-2-80 / AID Research Advisory Committee, Washington, D.C. (open), 11-13 and 11-14-80
- INTERSTATE COMMERCE COMMISSION**
- 67272** 10-9-80 / Public forum on interstate motor carrier study, Boston, Mass. (open), 11-12-80
- JUSTICE DEPARTMENT**
- Prisons Bureau—
- 68812** 10-16-80 / National Institute of Corrections Advisory Board, Boulder, Colo., 11-9-80
- LABOR DEPARTMENT**
- Occupational Safety and Health Administration—
- 63883** 9-26-80 / Health and safety standards, general and construction industries; machines and equipment, locking out and tagging; requirements, standards, and procedures; Chicago, Ill. (open), 11-12 through 11-14-80
[Corrected at 45 FR 67361, 10-10-80]
- NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
- 69602** 10-21-80 / NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee, Pasadena, Calif. (open), 11-10-80
- 71021** 10-27-80 / NASA Advisory Council, Informal Executive Subcommittee, La Jolla, Calif. (partially open), 11-13 and 11-14-80
- NATIONAL SCIENCE FOUNDATION**
- 63400** 9-24-80 / Behavioral and Neural Sciences Advisory Committee, Subcommittee for Anthropology, Washington, D.C. (closed), 11-12 through 11-14-80
- 69318** 10-20-80 / Mathematical and Computer Sciences Advisory Committee, Mathematical Sciences Subcommittee, Washington, D.C., (open), 11-14 and 11-15-80
- 70354** 10-23-80 / Ocean Sciences Advisory Committee, Executive Committee, Washington, D.C. (open), 11-13 and 11-14-80
- 68487** 10-15-80 / Ocean Sciences Advisory Committee, Subcommittee for Ocean Sciences Research, Washington, D.C. (closed), 11-10 and 11-11-80
- 68487** 10-15-80 / Social and Economic Science Advisory Committee, Subcommittee for Law and Social Sciences, Washington, D.C. (closed), 11-13 and 11-14-80

- 63400 9-24-80 / Social and Economic Science Advisory Committee, Subcommittee for Measurement Methods and Data Resources, Washington, D.C. (partially open), 11-14 and 11-15-80

NUCLEAR REGULATORY COMMISSION

- 71691 10-29-80 / Advisory Committee on Reactor Safeguards Subcommittee on Fluid Dynamics, Burlingame, Calif. (open), 11-13-80
- 71691 10-29-80 / Advisory Committee on Reactor Safeguards Subcommittee on Waste Management, Washington, D.C. (open), 11-13 and 11-14-80

PENSION POLICY, PRESIDENT'S COMMISSION

- 61058 9-15-80 / Federal administration of pension programs, Washington, D.C. (open), 11-14-80

SMALL BUSINESS ADMINISTRATION

- 65101 10-1-80 / Region II Advisory Council, San Juan, Puerto Rico (open), 11-14-80
- 66281 10-6-80 / Region VI Advisory Council, New Orleans, La. (open), 11-14-80

STATE DEPARTMENT

- 68496 10-15-80 / Advisory Committee on Historical Diplomatic Documentation, Washington, D.C. (partially open), 11-13 and 11-14-80
- 71462 10-28-80 / International Investment, Technology, and Development Advisory Committee, Washington, D.C. (open), 11-13-80
- 71463 10-28-80 / Law of the Sea Advisory Committee, Washington, D.C. (partially open), 11-13 and 11-14-80 Office of the Secretary—
- 69621 10-21-80 / Shipping Coordinating Committee, Safety of Life at Sea, Washington, D.C. (open), 11-12-80

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

- 67272 10-9-80 / Public forum on interstate motor carrier study, Boston, Mass. (open), 11-12-80 Office of the Secretary—
- 65392 10-2-80 / National Energy Transportation Study, Seattle, Wash., 11-14-80
[Changed at 45 FR 70370, 10-23-80]

UPPER MISSISSIPPI RIVER BASIN COMMISSION

- 71464 10-28-80 / 36th Quarterly Commission Meeting; St. Paul, Minn., 11-12 and 11-13-80

VETERANS ADMINISTRATION

- 67189 10-9-80 / Educational Allowances Station Committee, Hato Rey, Puerto, Rico, 11-13-80
- 61845 9-17-80 / Medical Research Service Merit Review Board, Cincinnati, Ohio (partially open), 11-13 and 11-14-80
- 59470 9-9-80 / Wage Committee, Washington, D.C. (closed), 11-13-80

Next Week's Public Hearings**COMMERCE DEPARTMENT**

National Oceanic and Atmospheric Administration—

- 70525 10-24-80 / Mid-Atlantic Fishery Management Council; mackerel and butterfish management plans:
Salisbury, Md., 11-10-80
Toms River, N.J., 11-10-80
Narragansett, R.I., 11-11-80
Montauk, N.Y., 11-13-80
- 70525 10-24-80 / North Pacific Fishery Management Council, High Seas Salmon Fishery Management Plan:
Anchorage, Alaska, 11-9-80
Juneau, Alaska, 11-13-80
Sitka, Alaska, 11-13-80
Ketchikan, Alaska, 11-14-80

ENERGY DEPARTMENT

Bonneville Power Administration—

- 66837 10-8-80 / Public Utility Regulatory Policies Act; implementation of lifeline rates, Portland, Oreg., 11-13-80
- 63909 9-26-80 / Economic Regulatory Administration—
Designing methods for distributing petroleum during a shortage and selecting standby distribution mechanisms, Washington, D.C., 11-13-80
- 67355 10-10-80 / Motor gasoline; retailer price rule and fixed cents per gallon markups, Washington, D.C., 11-12-80
- 58760 9-4-80 / Voluntary Guideline for the Cost of Service Standard under the Public Utility Regulatory Policies Act of 1978, San Francisco, Calif. (open), 11-13-80

ENVIRONMENTAL PROTECTION AGENCY

- 68980 10-17-80 / Consideration of North Dakota's interim authorization application, Phase I hazardous waste management program, Bismark, N. Dak. 11-14-80
- 68979 10-17-80 / Consideration of interim authorization application, Phase I hazardous waste management program, Salt Lake City, Utah, 11-14-80

FEDERAL TRADE COMMISSION

- 59588 9-10-80 / Rules for energy cost and consumption information used in labeling and advertising of consumer appliances under the Energy Policy and Conservation Act, Washington, D.C. 11-12-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

- 68886 10-16-80 / Proposal to determine the Borax Lake Chub to be an endangered species and Borax Lake, Harvey County, Ore., to be its Critical Habitat, Burns, Oreg., 11-13-80

INTERNATIONAL TRADE COMMISSION

- 63579 9-25-80 / Television Receiving sets from Japan, Washington, D.C. 11-12-80

TENNESSEE VALLEY AUTHORITY

- 63410 9-24-80 / Ratemaking standards, Chattanooga, Tenn., 11-10-80

[See also 45 FR 51975, 8-5-80]

TRADE REPRESENTATIVE, OFFICE OF UNITED STATES

- 57636 8-28-80 / Generalized System of Preferences; articles considered in trade negotiations or eligible for duty-free treatment; Washington, D.C., 11-10-80

TREASURY DEPARTMENT

Internal Revenue Service—

- 65625 10-3-80 / Actuarial reporting by benefit plan administrators, Washington, D.C., 11-12-80

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.

RULES GOING INTO EFFECT

- 71565 10-29-80 / HHS/PHS—Payment for tuition and other educational costs; effective 10-29-80
- 71714 10-29-80 / Interior/HCRS—Urban Park and Recreation Recovery Program; effective 11-28-80
- 70736 10-27-80 / USDA/FmHA—Multiple family housing borrowers and grant recipients; management and supervision; effective 10-27-80
- 70777 10-27-80 / USDA/FmHA—Rural rental housing loan policies; self-help technical assistance grants and farm labor housing grants; editorial amendments; effective 10-27-80

DEADLINES FOR COMMENTS ON PROPOSED RULES

- 71746 10-29-80 / DOE/Solar—Price support loans for municipal waste energy projects; comments by 1-5-81
- 71990 10-30-80 / DOT/FHWA—Urban transportation planning; comments by 12-29-80
- 71990 10-30-80 / DOT/UMTA—Urban transportation planning; comments by 12-29-80

APPLICATIONS DEADLINES

- 71432 10-28-80 / HHS/HSA—Availability of grants for material and child health and crippled children's services; apply by 1-16-81
- 71432 10-28-80 / HHS/HSA—Availability of project grants for general family planning training; apply by 4-1-81

MEETINGS

- 71498 10-28-80 / DOE—Consolidated State Grant Program; comments by 12-29-80; hearings in San Francisco, Calif., 12-3 and 12-4-80 and in Washington, D.C., 12-9 and 12-10-80
- 71746 10-29-80 / DOE/Solar—Price support loans for municipal waste energy projects, hearing in Washington, D.C., 12-11-80
- 71841 10-30-80 / ED—Education Appeal Board, Washington, D.C. (open), 11-6, 11-13 and 11-21-80
- 71450 10-28-80 / NFAH—Humanities Advisory Committee National Council, Washington, D.C. (partially open), 11-13 and 11-14-80
- 71868 10-30-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 11-17, 11-20, 11-21 and 11-24-80
- 71868 10-30-80 / NFAH—Museum Panel (General Services to the field, Museum Training), Washington, D.C. (closed), 11-14-80
- 71868 10-30-80 / NFAH—Music Panel (Recording Section), Washington, D.C. (partially open), 11-13 and 11-14-80

OTHER ITEMS OF INTEREST

- 72248 10-31-80 / CSA—Migrant and seasonal farmworkers; decision to fund Emergency Energy Assistance Programs; republication
- 71938 10-30-80 / DOT/Sec'y—Citizen participation in local transportation planning, final policy and proposed guidelines; comments by 12-29-80
- 71867 10-30-80 / IDCA/AID—Mission Director, USAID/Egypt; Redefinition of authority regarding contracting functions
- 71867 10-30-80 / IDCA/AID—Principal Aid Officers, Africa; Redefinition of authority regarding operational program grants
- 72312 10-31-80 / Justice/OJARS—Announcement of publication of the new Financial and Administrative Guide for Grants
- 72374 10-31-80 / Synthetic Fuels Corporation—Request for comments by 11-14-80 on draft solicitation for applications from concerns interested in construction or operation of synthetic fuel projects by end of calendar year

Public Laws

This is the third cumulative list of public laws for the second session of the 96th Congress. A fourth and final complete list will be published soon after the end of the second session of the 96th

Congress. The continuing listing of public laws published after enactment in the "Reader Aids" section of the **Federal Register** will be maintained on a current basis. Any comments may be addressed to the Director, Office of the Federal Register, Washington, D.C. 20408.

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Jan. 28	H.J.Res. 478	96-188	94:3	To extend by sixty days the expiration date of the Defense Production Act of 1950.	\$1.00
Feb. 8	H.R. 4320	96-189	94:4	To consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.	1.25
Feb. 12	S. 423	96-190	94:17	Dispute Resolution Act.	1.25
Feb. 15	H.R. 5176	96-191	94:27	General Accounting Office Personnel Act of 1980.	1.00
	S. 1300	96-192	94:35	International Air Transportation Competition Act of 1979.	1.25
Feb. 18	H.R. 2440	96-193	94:50	Aviation Safety and Noise Abatement Act of 1979.	1.25
Feb. 21	S.J.Res. 108	96-194	94:61	To validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups.	1.00
Feb. 25	S. 1452	96-195	94:63	To extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance.	1.00
Feb. 28	H.J.Res. 469	96-196	94:64	Designating February 19, 1980, as "Iwo Jima Commemoration Day."	1.00
	H.J.Res. 477	96-197	94:65	To authorize and request the President to issue a proclamation honoring the memory of Walt Disney on the twenty-fifth anniversary of his contribution to the American dream.	1.00
Mar. 5	H.J.Res. 267	96-198	94:66	To provide for designation of Friday, March 7, 1980, as "Teacher Day, United States of America".	1.00
	H.R. 3757	96-199	94:67	To establish the Channel Islands National Park, and for other purposes.	1.25
Mar. 6	S.J.Res. 109	96-200	94:78	To provide for the designation of October 3, 1980, as "American Enterprise Day".	1.00
	H.R. 6374	96-201	94:79	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ambassador Kenneth Taylor.	1.00
Mar. 8	S.J.Res. 43	96-202	94:80	To proclaim March 21, 1980, "National Energy Education Day".	1.00
Mar. 10	S. 1850	96-203	94:81	To authorize the conveyance of lands in the city of Hot Springs, Arkansas.	1.00
Mar. 11	H.J.Res. 434	96-204	94:83	To authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week".	1.00
Mar. 12	H.R. 3756	96-205	94:84	To authorize appropriations for certain insular areas of the United States, and for other purposes.	1.25
Mar. 13	S.J.Res. 149	96-206	94:93	To recognize the Honorable Carl Vinson on the occasion of the christening of the United States Ship Carl Vinson, March 15, 1980.	1.00
	H.J.Res. 493	96-207	94:94	Providing for the appointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00
	H.J.Res. 494	96-208	94:95	Providing for the appointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00
Mar. 14	H.R. 4337	96-209	94:96	To provide for the transfer of the Foreign Claims Settlement Commission of the United States to the United States Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Mar. 17	H.R. 5913	96-210	94:100	To amend section 502(a) of the Merchant Marine Act, 1936.	\$1.00
	S. 1792	96-211	94:101	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.	1.00
	S. 643	96-212	94:102	Refugee Act of 1980.	1.50
Mar. 18	H.R. 3398	96-213	94:119	Agricultural Adjustment Act of 1980.	1.00
Mar. 24	S. 2225	96-214	94:122	To provide that receipts from certain sales of items by the Sergeant at Arms of the Senate to Senators and committees and offices of the Senate shall be credited to the appropriation from which such items were purchased.	1.00
Mar. 25	S. 1454	96-215	94:123	To authorize the voluntary interservice transfer of officers between the commissioned corps of the National Oceanic and Atmospheric Administration and the Armed Forces, to authorize advance payments of pay and allowances to officers of such corps under the same conditions that apply to advance payments to members of the Armed Forces, and to provide officers of such corps the same unemployment compensation benefits that apply to members of the Armed Forces.	1.00
Mar. 27	S. 1682	96-216	94:125	To amend the Act of August 9, 1955 (69 Stat. 539)(25 U.S.C. 415), as amended, to authorize a ninety-nine-year lease for the Moses Allotment Numbered 10, Chelan County, Washington.	1.00
	S. 2222	96-217	94:126	To extend the time for commencing actions on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or restricted status.	1.00
Mar. 28	H.J.Res. 414	96-218	94:127	Authorizing the President to proclaim May 1, 1980, "National Bicycling Day".	1.00
	H.J.Res. 514	96-219	94:128	Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission.	1.00
Mar. 30	S. 2269	96-220	94:129	To extend the Emergency Agricultural Credit Adjustment Act of 1978, and for other purposes.	1.00
Mar. 31	H.R. 4986	96-221	94:132	Depository Institutions Deregulation and Monetary Control Act of 1980.	3.00
Apr. 1	H.R. 2797	96-222	94:194	Technical Corrections Act of 1979.	2.00
Apr. 2	H.R. 3919	96-223	94:229	Crude Oil Windfall Profit Tax Act of 1980.	3.25
	H.J.Res. 463	96-224	94:309	Designating the week of October 5 through October 11, 1980, as "National Diabetes Week".	1.00
Apr. 3	H.J.Res. 520	96-225	94:310	To extend by sixty days the expiration date of the Defense Production Act of 1950.	1.00
	H.R. 24	96-226	94:311	General Accounting Office Act of 1980.	1.00
	H.R. 4996	96-227	94:317	Paiute Indian Tribe of Utah Restoration Act.	1.00
	S. 1515	96-228	94:323	To authorize the striking of Bicentennial medals.	1.00
Apr. 7	H.R. 2676	96-229	94:325	Environmental Research, Development, and Demonstration Authorization Act of 1980.	1.00
Apr. 8	H.R. 6585	96-230	94:329	To extend the reorganization authority of the President under chapter 9 of title 5.	1.00
	S.J.Res. 131	96-231	94:330	Designating April 10, 1980, as "ORT Centennial Day".	1.00
Apr. 10	H.R. 5794	96-232	94:331	To designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building".	1.00
	S.J.Res. 97	96-233	94:332	Designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust".	1.00
Apr. 11	S. 2427	96-234	94:333	To encourage greater participation in the farmer-held reserve program for corn and wheat, and for other purposes.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Apr. 12	H.R. 3824	96-235	94:335	To amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval.	\$1.00
Apr. 22	H.R. 6029	96-236	94:336	Providing for the implementation of the International Sugar Agreement, 1977, and for other purposes.	1.00
Apr. 24	H.J.Res. 474	96-237	94:338	To authorize and request the President to issue a proclamation designating April 21 through April 28, 1980, as "Jewish Heritage Week".	1.00
	H.R. 6464	96-238	94:339	To authorize the Secretary of the Army to convey to the Michigan Job Development Authority the lands and improvements comprising the Michigan Army Missile Plant in Sterling Heights, Macomb County, Michigan, in return for two new office buildings at the Detroit Arsenal, Warren, Michigan.	1.00
Apr. 30	H.R. 7140	96-239	94:341	To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for two months the date on which the Pension Benefit Guaranty Corporation must pay benefits under terminated multiemployer plans.	1.00
May 1	H.J.Res. 541	96-240	94:342	Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission.	1.00
May 3	S. 2637	96-241	94:343	To ensure that the compensation and other emoluments attached to the office of Secretary of State are those which were in effect January 1, 1977.	1.00
May 5	H.R. 4197	96-242	94:344	To amend the Wool Products Labeling Act of 1939 with respect to recycled wool.	1.00
May 16	H.J.Res. 545	96-243	94:345	Making an urgent appropriation for the food stamp program for the fiscal year ending September 30, 1980, for the Department of Agriculture.	1.00
May 19	H.R. 126	96-244	94:346	To permit the Secretary of the Interior to accept privately donated funds and to expend such funds on property on the National Register of Historic Places.	1.00
May 21	H.R. 5673	96-245	94:347	To authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes.	1.00
May 23	H.R. 6839	96-246	94:348	To authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982.	1.00
	H.R. 10	96-247	94:349	Civil Rights of Institutionalized Persons Act.	1.00
	H.R. 3928	96-248	94:355	To amend the Act of November 8, 1978 (92 Stat. 3095), to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico.	1.00
May 26	S. 1309	96-249	94:357	Food Stamp Act Amendments of 1980.	1.25
	S.J.Res. 175	96-250	94:371	To extend the expiration date of the Defense Production Act of 1950.	1.00
	S. 668	96-251	94:372	To permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049).	1.00
May 28	H.R. 2313	96-252	94:374	Federal Trade Commission Improvements Act of 1980.	1.50
May 29	S. 2648	96-253	94:398	To authorize appropriations for the Federal Election Commission for fiscal year 1981.	1.00
May 30	S. 2253	96-254	94:399	To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor improvement project and to require the Secretary of Transportation to begin development of energy efficient rail passenger corridors, to provide for the protection of the employees of the Rock Island Railroad, and for other purposes.	1.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 6615	96-255	94:420	To amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal years 1981 and 1982, and for other purposes.	\$1.00
	H.R. 7471	96-256	94:421	To extend the present public debt limit through June 5, 1980.	1.00
May 31	H.R. 6081	96-257	94:422	Special Central American Assistance Act of 1979.	1.00
June 3	H.R. 3807	96-258	94:425	To amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change.	1.00
	S. 662	96-259	94:429	To provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.	1.00
	H.R. 4088	96-260	94:435	To authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes.	1.00
June 4	H.J.Res. 554	96-261	94:436	Making an appropriation for the Federal Trade Commission for the fiscal year ending September 30, 1980.	1.00
June 5	H.R. 4890	96-262	94:437	To authorize appropriations for the Commercial Fisheries Research and Development Act of 1964 for fiscal years 1981, 1982, and 1983.	1.00
June 6	H.R. 3789	96-263	94:438	To amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program.	1.00
	H.R. 7428	96-264	94:439	To extend the present public debt limit through June 30, 1980.	1.00
June 9	H.R. 3236	96-265	94:441	Social Security Disability Amendments of 1980.	2.25
	H.J.Res. 445	96-266	94:482	To provide for designation of the week of September 21-27, 1980, as "National Cystic Fibrosis Week".	1.00
	H.R. 6727	96-267	94:483	To establish the Bon Secour National Wildlife Refuge.	1.00
June 13	S. 1786	96-268	94:485	To amend the Act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said Act.	1.00
	S. 2517	96-269	94:486	To rename certain buildings of the Library of Congress.	1.00
June 14	S. 1658	96-270	94:487	Asbestos School Hazard Detection and Control Act of 1980.	1.25
June 16	S. 2666	96-271	94:499	To authorize appropriations for the International Natural Rubber Agreement for fiscal year 1981.	1.00
June 17	H.R. 3434	96-272	94:500	Adoption Assistance and Child Welfare Act of 1980.	2.00
	H.R. 4453	96-273	94:536	To amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.	1.00
	H.R. 2102	96-274	94:537	Pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota.	1.00
	H.R. 6842	96-275	94:539	To protect the confidentiality of Shippers' Export Declarations, and to standardize export data submission and disclosure requirements.	1.00
	H.R. 6285	96-276	94:541	Egg Research and Consumer Information Act Amendments of 1980.	1.00
	H.R. 3979	96-277	94:544	To repeal and amend certain laws regulating trade between Indians and certain Federal employees.	1.00
	S.J.Res. 127	96-278	94:547	To authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day".	1.00
June 18	H.J.Res. 442	96-279	94:549	Designating the week beginning June 22, 1980, as "National Athletic Boosters Week".	1.00
	S.J.Res. 89	96-280	94:550	Permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes.	1.00
June 19	S.J.Res. 183	96-281	94:551	Congratulating the Order of the Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day".	1.00
June 27	H.J.Res. 521	96-282	94:552	Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.	1.00
June 28	H.R. 2759	96-283	94:553	Deep Seabed Hard Mineral Resources Act.	2.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 2460	96-284	94:587	Uniformed Services Health Professionals Special Pay Act of 1980.	\$1.00
	H.R. 6022	96-285	94:595	To establish the Tensas River National Wildlife Refuge.	1.00
	H.J.Res. 569	96-286	94:598	To provide for a temporary increase in the public debt limit.	1.00
	H.R. 5926	96-287	94:599	To establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes.	1.00
	H.R. 6169	96-288	94:603	To establish the Bogue Chitto National Wildlife Refuge.	1.00
	H.R. 6614	96-289	94:605	To authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes.	1.00
	H.R. 4887	96-290	94:607	To authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes.	1.00
	H.R. 4889	96-291	94:608	To extend the authorization period for the Great Dismal Swamp National Wildlife Refuge.	1.00
	H.R. 5259	96-292	94:609	To name a certain Federal building in Santa Fe, New Mexico, the "Joseph M. Montoya Federal Building and U.S. Courthouse".	1.00
June 30	H.R. 7685	96-293	94:610	To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans.	1.00
	S. 932	96-294	94:611	Energy Security Act.	4.25
	S. 562	96-295	94:780	To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.	1.25
July 1	S. 2245	96-296	94:793	Motor Carrier Act of 1980.	2.00
	S.J.Res. 119	96-297	94:827	To authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.	1.00
	H.R. 7477	96-298	94:829	To amend the Internal Revenue Code of 1954 to provide a three-month extension of taxes which are transferred to the Airport and Airway Trust Fund.	1.00
July 2	S.J.Res. 115	96-299	94:830	Designating July 1980 as "National Porcelain Art Month".	1.00
	S.J.Res. 188	96-300	94:831	Extending the reporting date of the National Commission on Air Quality.	1.00
	H.R. 5751	96-301	94:832	To more adequately protect archeological resources in southwestern Colorado.	1.00
	S. 2698	96-302	94:833	To provide authorizations for the Small Business Administration, and for other purposes.	1.50
July 3	H.R. 5997	96-303	94:855	To provide for the display of the Code of Ethics for Government Service.	1.00
July 8	H.R. 7542	96-304	94:857	Supplemental Appropriations and Rescission Act, 1980.	3.25
	S. 751	96-305	94:929	Navajo and Hopi Indian Relocation Amendments Act of 1980.	1.00
	H.R. 7482	96-306	94:937	To authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the United States Summer Olympic Team of 1980.	1.00
	S.J.Res. 168	96-307	94:938	Designating July 18, 1980, as "National POW-MIA Recognition Day".	1.00
July 9	S. 598	96-308	94:939	Soft Drink Interbrand Competition Act.	1.00
	S. 2546	96-309	94:940	To authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties, and for other purposes.	1.00
July 17	H.R. 7474	96-310	94:941	Ocean Thermal Energy Conversion Research, Development, and Demonstration Act.	1.00
	H.R. 7573	96-311	94:947	To provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange.	1.00
July 23	S. 2009	96-312	94:948	Central Idaho Wilderness Act of 1980.	1.00
July 25	S.J.Res. 180	96-313	94:955	To provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00
	S.J.Res. 181	96-314	94:956	To provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 2382	96-315	94:957	To provide for additional authorization for appropriations for the Tinicum National Environmental Center.	\$1.00
July 30	S. 2240	96-316	94:960	National Aeronautics and Space Administration Authorization Act, 1981.	1.00
July 31	S. 1647	96-317	94:964	Commission on Wartime Relocation and Internment of Civilians Act.	1.00
Aug. 1	S. 1466	96-318	94:968	To provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27-A and 241, 289, and 27-B and 338, and for other purposes.	1.00
	S. 2508	96-319	94:972	To provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236-A, 236-B, and 236-E before the Indian Claims Commission and the United States Court of Claims, and for other purposes.	1.00
Aug. 3	S. 2492	96-320	94:974	Ocean Thermal Energy Conversion Act of 1980.	1.75
Aug. 4	S. 2995	96-321	94:1001	To allow the transfer of certain funds to fund the heat crisis program.	1.00
	H.R. 6666	96-322	94:1002	To revise the laws relating to the Coast Guard Reserve.	1.25
	H.R. 5580	96-323	94:1016	North Atlantic Treaty Organization Mutual Support Act of 1979.	1.00
Aug. 8	H.R. 1198	96-324	94:1020	To clarify the authority to establish lines of demarcation dividing the high seas and inland waters.	1.00
	H.R. 6613	96-325	94:1021	Maritime Labor Agreements Act of 1980.	1.00
	H.R. 827	96-326	94:1023	To establish dispute resolution procedures to settle disputes between supervisors and the United States Postal Service.	1.00
	S. 1916	96-327	94:1026	To authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.	1.00
	H.R. 5748	96-328	94:1027	To amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.	1.00
Aug. 11	H.R. 7786	96-329	94:1029	To amend Public Law 90-331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election.	1.00
Aug. 26	H.R. 7102	96-330	94:1030	Veterans' Administration Health-Care Amendments of 1980.	1.50
Aug. 28	S. 1863	96-331	94:1055	To authorize the Secretary of Commerce to charter the nuclear ship Savannah to Patriots Point Development Authority, an agency of the State of South Carolina.	1.00
Aug. 29	S. 1140	96-332	94:1057	To amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1980 and 1981, and for other purposes.	1.00
	S. 1730	96-333	94:1060	To declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe.	1.00
	H.J. Res. 589	96-334	94:1061	Providing additional program authority for the Export-Import Bank.	1.00
Sept. 4	H.R. 507	96-335	94:1062	To authorize Federal participation in stream rectification, Trinity River Division Central Valley project, California, and for other purposes.	1.00
	S. 496	96-336	94:1063	To increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes.	1.00
	S.J. Res. 83	96-337	94:1066	To authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia.	1.00
	S. 1998	96-338	94:1067	To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation.	1.00
	S. 2549	96-339	94:1069	To authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes.	1.00
	S. 2055	96-340	94:1072	To establish a reservation for the Confederated Tribes of Siletz Indians of Oregon.	1.00
Sept. 8	H.R. 8010	96-341	94:1076	To amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center".	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 6974	96-342	94:1077	Department of Defense Authorization Act, 1981.	\$2.25
	H.R. 5168	96-343	94:1123	Military Personnel and Compensation Amendments of 1980.	1.25
	S. 2680	96-344	94:1133	To improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666).	1.00
	H.R. 5892	96-345	94:1139	Wind Energy Systems Act of 1980.	1.25
Sept. 10	H.R. 7072	96-346	94:1148	To amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes.	1.00
Sept. 12	H.R. 1781	96-347	94:1150	To amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes.	1.00
	H.R. 1967	96-348	94:1152	To modify the boundary of the White River National Forest in the State of Colorado.	1.00
	S. 390	96-349	94:1154	Antitrust Procedural Improvements Act of 1980.	1.00
Sept. 15	H.R. 2538	96-350	94:1159	To facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes.	1.00
	H.R. 4627	96-351	94:1161	To authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America.	1.00
Sept. 17	H.J.Res. 607	96-352	94:1162	Making an urgent supplemental appropriation for the Veterans Administration for the fiscal year ending September 30, 1980.	1.00
Sept. 19	H.J.Res. 594	96-353	94:1163	To authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day".	1.00
	S. 299	96-354	94:1164	Regulatory Flexibility Act.	1.00
Sept. 24	S. 670	96-355	94:1171	Rural Development Policy Act of 1980.	1.00
	S. 1625	96-356	94:1177	To amend the Act of December 20, 1944, as amended.	1.00
	H.R. 5766	96-357	94:1178	To authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary concerned to require an individual furnished post-secondary education by an Armed Force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active-duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes.	1.00
Sept. 25	S. 261	96-358	94:1184	Agricultural Subterminal Facilities Act of 1980.	1.00
Sept. 26	H.R. 6940	96-359	94:1190	Infant Formula Act of 1980.	1.00
	H.R. 3210	96-360	94:1196	To terminate the authority to make grants to the Las Vegas Valley Water District under the Act of August 27, 1954.	1.00
	H.R. 6511	96-361	94:1197	To designate the building known as the Federal Building in Morgantown, West Virginia, as the "Harley O. Staggers Federal Building".	1.00
	S. 1650	96-362	94:1198	National Aquaculture Act of 1980.	1.25
	S. 2223	96-363	94:1207	To permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons.	1.00
	H.R. 3904	96-364	94:1208	Multiemployer Pension Plan Amendments Act of 1980.	3.75
	S. 1125	96-365	94:1312	Federal Crop Insurance Act of 1980.	1.25
Sept. 29	H.R. 3292	96-366	94:1322	Fish and Wildlife Conservation Act of 1980.	1.25
Oct. 1	H.R. 7590	96-367	94:1331	Energy and Water Development Appropriation Act, 1981.	1.25
	S. 2443	96-368	94:1347	West Valley Demonstration Project Act.	1.00
	H.J.Res. 610	96-369	94:1351	Making continuing appropriations for the fiscal year 1981, and for other purposes.	1.25
Oct. 3	H.R. 7825	96-370	94:1360	To establish the Ice Age National Scenic Trail, and for other purposes.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.J.Res. 551	96-371	94:1361	Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week", and for other purposes.	\$1.00
	S.J.Res. 209	96-372	94:1363	Providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities.	1.00
	H.R. 6395	96-373	94:1366	To amend the Consumer Product Safety Act to modify certain postemployment restrictions applicable to officers and employees of the Consumer Product Safety Commission.	1.00
	H.R. 5192	96-374	94:1367	Education Amendments of 1980.	4.00
	H.R. 5278	96-375	94:1505	To authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes.	1.00
	S. 2489	96-376	94:1509	To authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.	1.00
	H.R. 7478	96-377	94:1512	To facilitate the management of the public debt by permitting an increase in the investment yield on United States savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4 1/4 per centum which may be outstanding.	1.00
Oct. 6	H.R. 5164	96-378	94:1513	To amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes.	1.00
	S. 1895	96-379	94:1520	To change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as "Clarks Hill Dam and Lake".	1.00
	H.R. 6242	96-380	94:1521	To establish a Towing Safety Advisory Committee in the Department of Transportation.	1.00
	S. 1123	96-381	94:1523	To amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such Act for fiscal year 1980.	1.00
	H.R. 3748	96-382	94:1525	To provide for a uniform national three-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes.	1.00
	H.R. 8018	96-383	94:1526	To rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam".	1.00
	H.R. 8024	96-384	94:1527	To change the name of Aubrey Lake, Texas, to Ray Roberts Lake.	1.00
Oct. 7	H.R. 7511	96-385	94:1528	Veterans' Disability Compensation and Housing Benefits Amendments of 1980.	1.25
	H.R. 6308	96-386	94:1539	Magnetic Fusion Energy Act of 1980.	1.00
	S. 1442	96-387	94:1545	To authorize the documentation of certain vessels as vessels of the United States, and for other purposes.	1.00
	H.R. 8081	96-388	94:1547	To establish the United States Holocaust Memorial Council.	1.00
	S. 2271	96-389	94:1551	To amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes.	1.00
	H.R. 4792	96-390	94:1556	To name a certain Federal building in Houston, Texas, the Bob Casey Federal Building--U.S. Courthouse.	1.00
	H.R. 5410	96-391	94:1557	To amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election.	1.00
	H.R. 5732	96-392	94:1558	To designate the Federal Building located at 33 West Twohig, San Angelo, Texas, as the "O. C. Fisher Federal Building".	1.00
	H.R. 6531	96-393	94:1559	To name a certain Federal building in Indianapolis, Indiana, the Minton-Capehart Federal Building.	1.00
	H.R. 7414	96-394	94:1560	To designate the building known as the Federal Building and United States Courthouse in Amarillo, Texas, as the "J. Marvin Jones Federal Building".	1.00
	H.R. 7450	96-395	94:1561	To designate the United States Court House and the United States Post Office Federal Building in Waterbury, Connecticut, as the "John S. Monagan Federal Building".	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 7782	96-396	94:1562	To amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule.	\$1.00
	H.R. 8202	96-397	94:1563	To continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period.	1.00
	S. 1177	96-398	94:1564	Mental Health Systems Act.	3.00
Oct. 8	S. 2719	96-399	94:1614	Housing and Community Development Act of 1980.	3.50
Oct. 9	H.R. 7831	96-400	94:1681	Department of Transportation and Related Agencies Appropriation Act, 1981.	1.50
	S. 2126	96-401	94:1701	Relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation.	1.00
	S. 91	96-402	94:1705	Uniformed Services Survivor Benefits Amendments of 1980.	1.00
	H.R. 7670	96-403	94:1709	To amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.	1.00
	S. 341	96-404	94:1711	To authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.	1.00
	S. 1795	96-405	94:1713	To authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.	1.00
	S. 2398	96-406	94:1715	To extend the provisions of the General Exchange Act, as amended, to certain lands in order that they may become parts of the Umatilla and Wallowa National Forest, and for other purposes.	1.00
	H.R. 3956	96-407	94:1717	Granting the consent of the Congress to Hewson A. Ryan to accept the office and title of Honorary Consul of Honduras.	1.00
	H.R. 7130	96-408	94:1718	To designate the building known as United States Court House and Federal Building in Syracuse, New York, as the "James M. Hanley Federal Building".	1.00
	H.R. 7309	96-409	94:1719	To designate the Federal building in Portland, Oregon the "Edith Green Federal Building".	1.00
	H.R. 7544	96-410	94:1720	To designate the United States Federal Building in New Haven, Connecticut, as the "Robert N. Giaimo Federal Building".	1.00
	H.R. 7588	96-411	94:1721	To redesignate the United States Post Office and Courthouse Building in Concord, New Hampshire, as the "James C. Cleveland Federal Building".	1.00
	H.R. 7770	96-412	94:1722	To name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center".	1.00
	H.R. 8161	96-413	94:1723	To designate the United States Federal Building in Pittsburgh, Pennsylvania, as the "William S. Moorhead Federal Building".	1.00
	H.J.Res. 472	96-414	94:1724	Designating October 19, 1981, as a "Day of National Observance of the Two Hundredth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia".	1.00
	S. 2801	96-415	94:1725	To designate the Indian Health Facility in Ada, Oklahoma, the "Carl Albert Indian Health Facility".	1.00
	H.J.Res. 560	96-416	94:1726	To proclaim March 19, 1981, as "National Agriculture Day".	1.00
Oct. 10	S. 1654	96-417	94:1727	Customs Courts Act of 1980.	1.50
	H.R. 7301	96-418	94:1749	Military Construction Authorization Act, 1981.	2.00
	S.J.Res. 201	96-419	94:1784	To provide for the designation of a week as "National Lupus Week".	1.00
	H.R. 7919	96-420	94:1785	Maine Indian Claims Settlement Act of 1980.	1.25
	S.J.Res. 82	96-421	94:1798	To designate the week commencing with the third Monday in February of 1981 as "National Patriotism Week".	1.00
	H.R. 7859	96-422	94:1799	Refugee Education Assistance Act of 1980.	1.25
	S. 2730	96-423	94:1811	Federal Railroad Safety Authorization Act of 1980.	1.25

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 3180	96-424	94:1820	To repeal a provision of the Refugee Education Assistance Act of 1980.	\$1.00
	S. 2475	96-425	94:1821	Automobile Fuel Efficiency Act of 1980.	1.25
	S. 3148	96-426	94:1830	To name the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, the "Frank Carlson Federal Building".	1.00
	H.R. 7666	96-427	94:1831	Federal Employees' Group Life Insurance Act of 1980.	1.00
	H.R. 7218	96-428	94:1839	To establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes.	1.00
	S. 3044	96-429	94:1844	To designate the United States Federal Building in Hartford, Connecticut, as the "Abraham A. Ribicoff Federal Building".	1.00
	H.R. 7434	96-430	94:1845	To provide for the establishment of the Boston African American National Historic Site in the Commonwealth of Massachusetts, and for other purposes.	1.00
	H.R. 6065	96-431	94:1850	To amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes.	1.00
	H.R. 6331	96-432	94:1851	To amend the Act of July 31, 1946, as amended, relating to the United States Capitol Grounds, and for other purposes.	1.00
	H.R. 7939	96-433	94:1855	To amend the Securities Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission.	1.00
	S. 1796	96-434	94:1859	To authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.	1.00
	H.R. 7411	96-435	94:1861	Authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes.	1.00
Oct. 13	H.R. 7592	96-436	94:1863	Military Construction Appropriation Act, 1981.	1.00
	H.R. 5546	96-437	94:1870	To amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes.	1.00
	S. 985	96-438	94:1871	To amend the Consolidated Farm and Rural Development Act.	1.00
	H.R. 7779	96-439	94:1878	To amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court and to remove the age limitation on appointments to the Tax Court.	1.00
	S. 1790	96-440	94:1879	Privacy Protection Act of 1980.	1.00
	H.R. 8103	96-441	94:1884	To rename the National Collection of Fine Arts and the Museum of History and Technology of the Smithsonian Institution as the National Museum of American Art and the National Museum of American History, respectively.	1.00
	H.R. 5048	96-442	94:1885	Manassas National Battlefield Park Amendments of 1980.	1.00
	H.J.Res. 568	96-443	94:1888	To authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week".	1.00
	S. 2936	96-444	94:1889	To transfer certain employees of the Architect of the Capitol to the Sergeant at Arms and Doorkeeper of the Senate.	1.00
	H.R. 6440	96-445	94:1891	To establish priorities in the payment of claims against the People's Republic of China.	1.00
	S. 2185	96-446	94:1893	To authorize the acceptance and use of bequests and gifts for disaster relief.	1.00
	S. 2511	96-447	94:1894	Civil Rights Commission Authorization Act of 1980.	1.00
Oct. 14	S. 1946	96-448	94:1895	Staggers Rail Act of 1980.	3.50
	H.R. 7085	96-449	94:1967	Hostage Relief Act of 1980.	1.00
	S. 2597	96-450	94:1975	Intelligence Authorization Act for Fiscal Year 1981.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 4310	96-451	94:1983	To amend the Federal Boat Safety Act of 1971 to promote recreational boating safety through the development, administration, and financing of a national recreational boating safety improvement program, and for other purposes.	\$1.25
	H.R. 7665	96-452	94:1994	Fifth Circuit Court of Appeals Reorganization Act of 1980.	1.00
Oct. 15	H.R. 5451	96-453	94:1997	Maritime Education and Training Act of 1980.	1.25
	S. 1798	96-454	94:2011	Household Goods Transportation Act of 1980.	1.25
	H.R. 4273	96-455	94:2024	To amend section 17 of the Act of July 5, 1946, as amended, entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes".	1.00
	S. 1482	96-456	94:2025	Classified Information Procedures Act.	1.00
	S. 1640	96-457	94:2032	To extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes.	1.00
	S. 1873	96-458	94:2035	Judicial Councils Reform and Judicial Conduct and Disability Act of 1980.	1.00
	H.R. 6554	96-459	94:2042	Maritime Appropriation Authorization Act for Fiscal Year 1981.	1.00
	H.R. 4417	96-460	94:2044	Chesapeake Bay Research Coordination Act of 1980.	1.00
	S. 2320	96-461	94:2049	National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982.	1.00
	H.R. 8178	96-462	94:2053	Federal District Court Organization Act of 1980.	1.00
	S. 2412	96-463	94:2055	Used Oil Recycling Act of 1980.	1.00
Oct. 17	S. 2622	96-464	94:2060	Coastal Zone Management Improvement Act of 1980.	1.25
	H.R. 6790	96-465	94:2071	Foreign Service Act of 1980.	3.75
	H.R. 5288	96-466	94:2171	Veterans' Rehabilitation and Education Amendments of 1980.	3.00
	H.R. 3122	96-467	94:2220	Relating to the tariff treatment of certain articles.	1.25
	H.R. 6593	96-468	94:2229	Swine Health Protection Act.	1.00
	S. 2043	96-469	94:2235	Animal Cancer Research Act.	1.00
Oct. 19	H.R. 6686	96-470	94:2237	Congressional Reports Elimination Act of 1980.	1.25
	H.R. 6883	96-471	94:2247	Installment Sales Revision Act of 1980.	1.25
	S. 1393	96-472	94:2257	To amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and the fire prevention and control program, and for other purposes.	1.00
	H.R. 5295	96-473	94:2263	To amend the Social Security Act with respect to the retirement test, to reduce spending under title II of the Social Security Act, and for other purposes.	1.00
	H.R. 5326	96-474	94:2267	To authorize the Secretary of Agriculture to convey certain Government-owned property in the Kisatchie National Forest to the State of Louisiana in exchange for certain property at old Camp Livingston, Louisiana.	1.00
	H.R. 6816	96-475	94:2269	To provide for the exchange of certain Federal coal leases in the State of New Mexico for other Federal coal leases in that State.	1.00
	S. 3072	96-476	94:2271	Rattlesnake National Recreation Area and Wilderness Act of 1980.	1.00
Oct. 21	H.R. 7554	96-477	94:2275	Small Business Investment Incentive Act of 1980.	1.50
	H.R. 6665	96-478	94:2297	Act to Prevent Pollution from Ships.	1.00
	H.R. 2743	96-479	94:2305	National Materials and Minerals Policy, Research and Development Act of 1980.	1.00
	S. 1250	96-480	94:2311	Stevenson-Wylder Technology Innovation Act of 1980.	1.25
	H.R. 5612	96-481	94:2321	To amend the Small Business Act, to provide for the payment of the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States, and for other purposes.	1.25
	S. 1156	96-482	94:2334	Solid Waste Disposal Act Amendments of 1980.	1.75
	S. 2725	96-483	94:2360	To extend certain authorizations in the Clean Water Act, and for other purposes.	1.00

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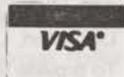
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