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Tuesday
December 16, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C., see announcement in the **Reader Aids** section at the end of this issue.

82619 **Papua New Guinea** Presidential determination making eligible sales of defense articles and services

82721 **Housing** HUD solicits comments on displacement of lower-income households caused by public and private reinvestment activity; comments by 1–16–81

82653 **Housing Standards** USDA/FmHA proposes to amend its regulations regarding disposal of acquired property; comments by 2–17–81

82888 **National School Lunch Program** USDA/FNS publishes emergency rule amending format for food collection preference; effective 12–16–80 (Part VII of this issue)

82890 **Food Relief Programs** USDA/FNS solicits comments concerning a revision of the regulations for the Food Distribution Program; comments by 2–17–81 (Part VII of this issue)

82894 **Food Relief Programs** USDA/FNS revises Food Distribution Program rules; effective 12–16–80 (Part VIII of this issue)

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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.

Highlights

82621 **School Breakfast and Lunch Programs** USDA/FNS amends FY 1980 reimbursement rules for National School Lunch, Special Milk, and School Breakfast Programs; effective 12–16–80

82697 **Petroleum** DOE/ERA issues second supplemental buy/sell list for the allocation period of 10–1–80 through 3–31–81

82699 **Petroleum** DOE/ERA publishes revised maximum and representative prices for certain reference crude oils for the period of January through June 1979

82723–82726 **Continental Shelf** Interior/GS announces receipt of proposed development and production plans for oil, gas and sulphur operations (11 documents)

82659 **Cribs** CPSC proposes changes to the requirements for full size and non-full-size baby cribs; comments by 2–17–81

82872 **Census Data** Commerce/Census announces position on undernumeration adjustment for 1980 census (Part VI of this issue)

82623 **Banks, Banking** FRS amends regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of adjusting discount rates

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82666 **Improving Government Regulations** Publication of HHS semiannual agenda of regulations delayed until 12–19–80. by printing and production difficulties

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82684 Arms Control and Disarmament Agency

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Presidential Documents

Title 3—

The President

Presidential Determination No. 80–29 of December 4, 1980

Eligibility of Papua New Guinea To Make Purchases of Defense Articles and Defense Services Under the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 3(a)(1) of the Arms Export Control Act, I hereby find that the sale of defense articles and defense services to the Government of Papua New Guinea will strengthen the security of the United States and promote world peace.

You are directed on my behalf to report this finding to the Congress.

This finding, which amends Presidential Determination No. 73–10 of January 2, 1973 (38 FR 7211), as amended by Presidential Determinations No. 73–12 of April 26, 1973 (38 FR 12799), No. 74–9 of December 13, 1973 (39 FR 3537), No. 75–2 of October 29, 1974 (39 FR 39863), No. 75–21 of May 20, 1975 (40 FR 24889), No. 76–1 of August 5, 1975 (40 FR 37205), No. 76–11 of March 25, 1976 (41 FR 14163), No. 76–12 of April 14, 1976 (41 FR 18281), No. 77–5 of November 5, 1976 (41 FR 50625), No. 77–17 of August 1, 1977 (42 FR 40169), No. 77–20 of September 1, 1977 (42 FR 48867), No. 79–5 of February 6, 1979 (44 FR 12153), No. 79–11 of June 21, 1979 (44 FR 38437), No. 80–12 of March 3, 1980 (45 FR 16995), and No. 80–14 of March 13, 1980 (45 FR 19211) shall be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, December 4, 1980.

[FR Doc. 80–39266
Filed 12–15–80; 11:20 am]
Billing code 3195–01–M

Rules and Regulations

Federal Register
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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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule: correction.

SUMMARY: This document corrects an excepted service appointing authority for the Department of Health, Education, and Welfare.

EFFECTIVE DATE: February 21, 1980.

FOR FURTHER INFORMATION CONTACT: Edward Hicks, 202–472–3776.

SUPPLEMENTARY INFORMATION: On May 30, 1980, at 45 FR 36348, the Office of Personnel Management published an excepted service appointing authority for the Department of Health, Education, and Welfare (now Health and Human Services) (FR Doc. 80–16513). This document corrects § 213.3116(k)(3) which incorrectly listed 4 positions on the Indochinese Refugee Program Staff Service. The correct number of positions is 64.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

§ 213.3116 Department of Health, and Human Services.

* * * * *

(k) * * *

(3) Not to exceed 64 positions on the Indochinese Refugee Program Staff Service under this authority may not exceed September 10, 1981.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp. P 218)

[FR Doc. 80-39087 Filed 12-15-80; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 215, and 220

National School Lunch Program, Special Milk Program, and School Breakfast Program; Submission of Fiscal Year 1980 Claims for Reimbursement

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This emergency final rule amends National School Lunch Program, Special Milk Program, and School Breakfast Program regulations to require that fiscal year 1980 Claims for Reimbursement be submitted by January 1, 1981 to be eligible for reimbursement. Any claim for reimbursement that is consequently adjusted due to audit or investigation will be eligible for reimbursement, provided that the claim was originally submitted before January 1, 1981. The submission deadline is required by Pub. L. 96–108 for the National School Lunch and School Breakfast Programs and is also being extended to the Special Milk Program in the interest of orderly and efficient program administration. Implementation of this rule will greatly assist FNS in monitoring all school nutrition program obligations and in estimating funding needs.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Chief, Policy and Program Development Branch, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–9065. A Final Impact Statement has been prepared and is available on request from the above named individual.

SUPPLEMENTARY INFORMATION:

Administrative Procedures

This emergency final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has not been classified "significant". The Department has determined that an emergency situation exists which warrants this regulation being issued on an emergency final basis. Good cause exists for making this regulation effective upon publication. Public Law 96–108 mandates that Claims for Reimbursement for the National School Lunch and School Breakfast Programs for meals served during fiscal year 1980 be submitted by January 1, 1981. The solicitation of public comments is therefore unnecessary and impractical because the Department has no authority to alter these requirements.

Background

Pub. L. 96–108, enacted on November 9, 1979, contained the following provision: "* * * only Claims for Reimbursement for meals served during fiscal year 1980 submitted to State agencies prior to January 1, 1981, shall be eligible for reimbursement." These regulations impose the filing requirements mandated by this legislation.

The filing requirements of Pub. L. 96–108 are also extended to the Special Milk Program for fiscal year 1980. Although not specifically mandated by Public Law 96–108, the Department believes that efficient program administration dictates that claims for reimbursement under the Special Milk Program be subject to the same filing requirements as for the National School Lunch and School Breakfast Programs. Since the establishment of a claims deadline contributes to more orderly administration of Federal funds and, since claims for all three programs are often consolidated, the Department believes it is both necessary and desirable to extend the filing deadline to all three programs.

The claims deadline provision for fiscal year 1980 which is contained in Pub. L. 96–108 is identical to a fiscal year 1979 provision which was part of Pub. L. 96–38. In the conference report (H. Report 96–331) written during the development of Pub. L. 96–38, the conferees noted that "* * * adjustment to these (reimbursement) claims may arise pursuant to audits or investigations performed subsequent to submittal of claims." The report went on to say that the conferees did not intend to stop proper payments of claims that were being adjusted due to audits or investigations if the claims were originally submitted before the deadline. The regulations which established the fiscal year 1979 claims deadline reflected the intent of the conferees by providing State agencies the needed flexibility to correct claims and make

adjustments as determined necessary through their administrative review processes or through other means. The Department believes it is reasonable to apply the same provision for claim corrections and adjustments to fiscal year 1980 claims.

In addition to requiring that all fiscal year 1980 claims be submitted by January 1, 1981 in order to be eligible for reimbursement and providing flexibility to State agencies in correcting claims, this rule: (1) requires that corrections to all claims be completed prior to submission of final fiscal year 1980 program reports if reimbursement is to be made through the letter of credit process, and (2) requires FNS approval for reimbursement increases resulting from claim corrections made after submission of final program reports. The provisions of this rule are designed to assist FNS in monitoring all school nutrition program obligations and in estimating funding needs.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Accordingly, Part 210, National School Lunch Program, is amended as follows: § 210.13 paragraph (b) is revised to read as follows:

§ 210.13 Reimbursement procedures.

* * * * *

(b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State to provide the information for the reports required under § 210.14(g)(2). Claims for Reimbursement shall be received by the State agency, or FNSRO where applicable, by the 10th day of the month following the month covered. Not more than 10 days of the beginning or ending month of Program operations in a fiscal year may be combined on a Claim for Reimbursement with the operations of the month immediately following the beginning month, or preceding the ending month. Claims for Reimbursement may not combine operations occurring during the ending month of a fiscal year with the beginning month of the next fiscal year. Claims for Reimbursement for meals served during fiscal years 1979 and 1980 shall be filed with the State agency, or FNSRO where applicable, prior to January 1, 1980 or January 1, 1981, respectively, in order to be eligible for reimbursement. The State agency, or FNSRO where applicable, shall, as determined necessary through its administrative review processes or otherwise, promptly take corrective action with respect to any such claim. Such corrective action shall be completed in sufficient time to be reflected in the applicable final Program Operations and Financial Status Reports for the fiscal year as required under OMB Circular A–102 if reimbursement for such claims is to be made from funds made available for that fiscal year through the Letter of Credit process described under § 210.5(a) of this Part. Any requested increase in reimbursement level for a fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports, shall be submitted to FNS for approval. The request shall be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves of such increase, it shall make payments subject to the availability of funds. Any reduction in reimbursement level for a fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 210.16 of this Part except that amounts recovered may not be used to make program payments.

* * * * *

PART 215—SPECIAL MILK PROGRAM

Part 215—Special Milk Program is amended as follows:

§ 215.10 paragraphs (a) and (b) are revised and (c) is deleted and reserved.

§ 215.10 Reimbursement procedures.

(a) To be entitled to reimbursement under this part, each School Food Authority shall submit to the State agency, or FNSRO where applicable, a monthly Claim for Reimbursement.

(b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State to provide the information for the reports required under § 215.11(c). Claims for Reimbursement shall be received by the State agency, or FNSRO where applicable, by the 10th day of the month following the month covered. Not more than 10 days of the beginning or ending month of Program operations in a fiscal year may be combined on a Claim for Reimbursement with the operations of the month immediately following the beginning month, or preceding the ending month. Claims for Reimbursement may not combine operations occurring during the ending month of a fiscal year with the beginning month of the next fiscal year. Claims for Reimbursement for milk served during fiscal year 1980 shall be filed with the State agency, of FNSRO where applicable, prior to January 1, 1981 in order to be eligible for reimbursement. The State agency, or FNSRO where applicable, shall, as determined necessary through its administrative review processes or otherwise, promptly take corrective action with respect to any such claim. Such corrective action shall be completed in sufficient time to be reflected in the applicable final Program Operations and Financial Status Reports for the fiscal year as required under OMB Circular A–102 if reimbursement for such claims is to be made from funds made available for that fiscal year through the Letter of Credit process described under § 220.5 of this Part. Any requested increase in reimbursement level for a fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports, shall be submitted to FNS for approval. The request shall be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves of such increase, it shall make payments subject to the availability of funds. Any reduction in reimbursement level for a fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 215.12 of this Part except that amounts recovered may not be used to make program payments.

(c) [Deleted and Reserved]

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

Part 220—School Breakfast Program is amended as follows:

§ 220.11 paragraphs (a) and (b) are revised to read as follows:

§ 220.11 Reimbursement procedures.

(a) To be entitled to reimbursement under this part, each School Food Authority shall submit to the State agency, or FNSRO where applicable, a monthly Claim for Reimbursement.

(b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State to provide the information for the reports required under § 220.13(b). Claims for Reimbursement shall be received by the State agency, or FNSRO where applicable, by the 10th day of the month following the month covered. Not more

than 10 days of the beginning or ending month of Program operations in a fiscal year may be combined on a Claim for Reimbursement with the operations of the month immediately following the beginning month, or preceding the ending month. Claims for Reimbursement may not combine operations occurring during the ending month of a fiscal year with the beginning month of the next fiscal year. Claims for Reimbursement for meals served during fiscal year 1979 and 1980 shall be filed with the State agency, or FNSRO where applicable, prior to January 1, 1980 or January 1, 1981, respectively, in order to be eligible for reimbursement. The State agency, or FNSRO where applicable, shall, as determined necessary through its administrative review processes or otherwise, promptly take corrective action with respect to any such claim. Such corrective action shall be completed in sufficient time to be reflected in the applicable final Program Operations and Financial Status Reports for the fiscal year as required under OMB Circular A–102 if reimbursement for such claims is to be made from funds made available for that fiscal year through the Letter of Credit process described under § 220.5 of this Part. Any requested increase in reimbursement level for the fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports, shall be submitted to FNS for approval. The request shall be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves of such increase, it shall make payments subject to the availability of funds. Any reduction in reimbursement level for a fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 220.14 of this Part except that amounts recovered may not be used to make program payments.

* * * * *

(Catalog of Federal Domestic Assistance Numbers 10.555, 10.553, 10.556)

(Pub. L. 96–108, 93 Stat. 837 (42 USC 1752))

Dated: December 10, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80–39187 Filed 12–15–80; 8:45 am]

BILLING CODE 3410–30–M

Rural Electrification Administration

7 CFR Part 1701

Extension of Principal Repayments To Achieve Conservation Objectives

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby issues a Final Rule to revise REA Bulletin 20–23 by expanding the list of energy conservation measures for which REA borrowers may provide financing to consumers and receive Section 12 Extension of Principal Repayments. At the time Bulletin 20–23 was originally issued (45 FR 40963) the Final Rule Notice announcing the program indicated that, in the interest of expediting the implementation of the Energy Resources Conservation (ERC) loan program, consideration of expanding the program to include additional measures suggested during the public review period was being deferred for further review. The inclusion of such additional measures at this time will further the national effort to conserve energy, and natural and capital resources, especially liquid fuels. Appendix A to 7 CFR 1701 is hereby revised to include this Revised REA Bulletin 20–23.

EFFECTIVE DATE: December 8, 1980.

FOR FURTHER INFORMATION CONTACT: Alex Cockey, Deputy Director, Distribution Systems Division, Rural Electrification Administration, Room 3302, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3534. The Final Impact Statement describing the options considered in developing this Final Rule and the impact of each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: REA hereby issues revised REA Bulletin 20–23, Section 12 Extensions for Energy Conservation Loans, pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*). This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, "Improving Government Regulations," and has been classified "not significant."

REA, in its effort to further national goals of energy conservation and the conservation of national and capital resources, as set forth in the National Energy Conservation Policy Act (NECPA) of 1978, Executive Order No. 12185 issued December 17, 1978, and other laws and regulations issued the original REA Bulletin 20–23, Section 12 Extensions for Energy Conservation Loans on June 11, 1980. This bulletin utilized existing authorities under Section 12 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) to extend certain principal payments at the request of distribution systems to make funds available for ERC loans.

The initial program did not include a number of measures that were suggested during the public review and comment period for the proposed program. Notice of the Final Rule indicated that other measures that could have been included in the program were being deferred for further review in order to expedite implementation of the program. It has now been determined to include the following items in the list of energy conservation measures for which REA borrowers may provide financing to consumers (the first two items only when supported by an energy audit of the consumer's establishment) and receive Section 12 Extension of Principal Repayments:

1. Heat pump systems (including water source heat pumps) and water heaters, which reduce consumption of electricity.

2. Heat pumps, water heaters, and central heating or central air conditioning system replacements and modifications, which reduce oil or gas consumption except in those cases where the primary fuel for generating electricity is oil or gas.

3. Electric system coordinated customer-owned devices that reduce the maximum kilowatt demand on the electric system.

Copies of the new bulletin are being sent directly to all REA electric borrowers. Others may request copies from the address indicated above.

Dated: December 8, 1980.

Susan T. Shepherd,

Acting Administrator.

[FR Doc. 80–38710 Filed 12–15–80; 8:45 am]

BILLING CODE 3410–15–M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit by Federal Reserve Banks; Changes in Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit By Federal Reserve Banks," for

the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country. In addition, the Board adopted a surcharge of 3 percentage points on frequent use of the discount window by large borrowers.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3257).

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 5 U.S.C. Sec. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations required that these amendments must be adopted immediately.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357, Part 201 is amended as set forth below:

1. Section 201.51 is revised to read as follows:

§ 201.51 Short term adjustment credit for depository institutions.

The rates for short term adjustment credit provided to depository institutions under § 201.3(a) of Regulation A are:

Federal Reserve Bank of	Rate	Effective
Boston	13	Dec. 8,1980.
New York	13	Dec. 5,1980.
Philadelphia	13	Dec. 8,1980.
Cleveland	13	Dec. 5,1980.
Richmond	13	Do.
Atlanta	13	Do.
Chicago	13	Dec. 8,1980.
St. Louis	13	Dec. 5,1980.
Minneapolis	13	Do.
Kansas City	13	Do.
Dallas	13	Dec. 8,1980.
San Francisco	13	Dec. 5,1980.

A 3 percent surcharge is imposed additionally on borrowings for short-term adjustment purposes of institutions with deposits of $500 million or more.

2. Section 201.52 is revised to read as follows:

§ 201.52 Extended credit to depository institutions.

(a) The rates for seasonal credit extended to depository institutions under § 201.3(b)(1) of Regulation A are:

Federal Reserve Bank of	Rate	Effective
Boston	13	Dec. 8,1980.
New York	13	Dec. 5,1980.
Philadelphia	13	Dec. 8,1980.
Cleveland	13	Dec. 5,1980.
Richmond	13	Do.
Atlanta	13	Do.
Chicago	13	Dec. 8,1980.
St. Louis	13	Dec. 5,1980.
Minneapolis	13	Do.
Kansas City	13	Do.
Dallas	13	Dec. 8,1980.
San Francisco	13	Dec. 5,1980.

(b) The rates for other extended credit provided to depository institutions where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) of Regulation A are:

Federal Reserve Bank of	Rate	Effective
Boston	14	Dec. 8,1980.
New York	14	Dec. 5,1980.
Philadelphia	14	Dec. 8,1980.
Cleveland	14	Dec. 5,1980.
Richmond	14	Do.
Atlanta	14	Do.
Chicago	14	Dec. 8,1980.
St. Louis	14	Dec. 5,1980.
Minneapolis	14	Do.
Kansas City	14	Do.
Dallas	14	Dec. 8,1980.
San Francisco	14	Dec. 5,1980.

3. Section 201.53 is revised to read as follows:

§ 201.53 Emergency credit for other than depository institutions.

The rates for emergency credit to individuals, partnerships, or corporations other than depository institutions under § 201.3(c) of Regulation A are:

Federal Reserve Bank of	Rate	Effective
Boston	16	Dec. 8,1980.
New York	16	Dec. 5,1980.
Philadelphia	16	Dec. 8,1980.
Cleveland	16	Dec. 5,1980.
Richmond	16	Do.
Atlanta	16	Do.
Chicago	16	Dec. 8,1980.
St. Louis	16	Dec. 5,1980.
Minneapolis	16	Do.
Kansas City	16	Do.
Dallas	16	Dec. 8,1980.
San Francisco	16	Dec. 5,1980.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, December 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38941 Filed 12-15-80; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Regulation PS-99; Policy Statement Amendment No. 76 to Part 399; Docket 38784]

Statement of General Policy; Flight Equipment Depreciation and Residual Values

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is changing its policy so that the service lives and residual values used by carriers to calculate flight equipment depreciation expense may be used to determine service mail rates for nonsubsidized carriers. This change is at the CAB's own initiative.

DATES: Adopted: December 11, 1980. Effective: December 11, 1980.

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk, Chief, Domestic Fares & Rates Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428: 202-673-5298.

SUPPLEMENTARY INFORMATION: In PSDR-67, 45 FR 66474, October 7, 1980 (Docket 38784), the Board proposed to change its policy so that carriers' own service lives and residual values for flight equipment depreciation may be used to determine service mail rates for nonsubsidized carriers. Since 1971, 14 CFR Part 399.42, *Flight equipment depreciation and residual values,* has required that straight-line depreciation, together with a table establishing service lives and residual value percentages, be used for all ratemaking purposes. However, in ER-1188, 45 FR 48867, July 22, 1980, the Board eliminated the requirement that nonsubsidized carriers file report schedules that show the difference between the "regulatory" depreciation mandated by the Board and the "book" depreciation used by the carrier. The service mail rate base has been set with regulatory rather than carriers' service lives and residual values. With the elimination of these reports, the calculations for the semiannual update of the service mail rates have become inaccurate and time-consuming for the Board. Therefore, the Board proposed that the regulatory service lives and residual values be retained for subsidized carriers only, so that the service mail rates for nonsubsidized carriers can be restated in terms of the service lives and residual values used by the carriers for book purposes.

Only United Airlines filed comments in response to the notice of proposed

rulemaking. In general, United fully supported the Board's proposal as being in line with deregulation and the movement toward reduced reporting requirements. However, United complained about the expected loss of domestic mail revenues that probably will result from this change in policy, and urged the Board to make an upward compensatory adjustment.

The Board recognizes that the change in depreciation method may result in some loss of mail rate revenue. Originally, the Board staff estimated that among all domestic carriers, there may be a $750,000 annual reduction in revenue, out of total service mail revenue in 1979 of $332 million. Since that original estimate, the amount by which regulatory depreciation exceeds book depreciation has increased from $12 million to $20 million. According to the most current data available, the carrier-wide loss in domestic markets from this change may be as high as $1.9 million. The percentage loss in terms of total mail revenue is, however, still very small. Nevertheless, the Board will be sensitive to any loss of carrier revenue caused by this change in preparing the December 30, 1980 service mail rate update. At that time, we will consider whether a compensatory adjustment should be made. If any carrier is dissatisfied with the proposed rate update, it will have 10 days to show cause why the new rates should not be implemented. No unilateral action will be taken by the Board that may result in a significant revenue loss to carriers without prior notice and an opportunity to be heard.

This final rule will be effective immediately, so that the service mail rates can be restated in terms of the carriers' book depreciation in time for the December 30, 1980 update.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 399, *Statements of General Policy*, as follows:

1. The authority for Part 399 is amended to read:

Authority: Secs. 101, 102, 105, 204, 401, 402, 403, 404, 405, 407, 408, 409, 411, 412, 416, 801, 1001, 1002, 1102, 1104, Pub. L. 85–726, as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 760, 766, 767, 768, 769, 770, 771, 782, 788, 797, 92 Stat. 1708; 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1377, 1378, 1379, 1381, 1382, 1386, 1461, 1481, 1482, 1502, 1504.

2. Section 399.42 is amended by adding the words "for air carriers receiving subsidy under section 406 of the Act," so that it reads as follows:

§ 399.42 Flight equipment depreciation and residual values.

For rate-making purposes, for air carriers receiving subsidy under section 406 of the Act, it is the policy of the Board that flight equipment depreciation will be based on the conventional straight-line method of accrual, employing the service lives and residual values set forth below: * * *

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-39030 Filed 12-15-80; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-2717]

Commercial Services Co., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the cease and desist order issued by the Commission on August 20, 1975, 40 FR 44312, 86 F.T.C. 467, by deleting the third It Is Further Ordered paragraph of the original order which requires that when the firm institutes suits in any superior court in Washington State, they attach to any summons served upon consumers a notice giving defendants an adequate explanation of what the summons means and directions for avoiding default. This portion of the order appears to be unnecessary since the revised Washington Superior Court summons form now affords consumers an adequate explanation.

DATES: Order issued August 20, 1975. Modifying order issued November 26, 1980.

FOR FURTHER INFORMATION CONTACT: Randall H. Brook, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174, (206) 442–4655.

SUPPLEMENTARY INFORMATION: In the Matter of Commerical Services Company, Inc., a corporation, and Commerical Collectors, a partnership, and Glen B. Faulk and Richard K. Swaffield, individually as co-partners doing business as Commercial Collectors, and Vincent A. Retacco, an individual. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, remain unaltered.

The Order Reopening the Proceeding and Modifying Decision and Order is as follows:

On August 20, 1975, the Federal Trade Commission issued a Decision and Order against Commercial Services Company, Inc. and other related parties. The order requires respondents to refrain from certain debt collection practices; among other things, the order requires Commercial Services, whenever they cause consumers to be served with Washington Superior Court summons and complaints, to attach a clear explanation of what the summons means and how to avoid a default judgment.

The revised Washington Superior Court Rules summons form now appears to afford an adequate explanation to consumers, and obviates the need for the summons explanation forms required by the Commission. Due to this changed condition of fact, it appears to the Commission that it is the public interest to reopen this proceeding and alter its order, to delete the portion of the order requiring a summons explanation form.

On September 24, 1980 the Commission issued an order to show cause why the Commission should not reopen the proceedings and delete the third It Is Further Ordered paragraph of the original order. Respondents did not reply to the Show Cause Order and no comments were filed.

It Is Ordered that the proceeding be reopened.

It Is Further Ordered that the decision and order issued on August 20, 1975 is modified by deleting the third It Is Further Ordered paragraph of the order.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-39026 Filed 12-15-80; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1512

Amendments to Bicycle Regulation: Retroreflective Rims

AGENCY: Consumer Product Safety Commission.

ACTION: Final amendments to regulation.

SUMMARY: The Commission's bicycle safety regulation currently has side reflectivity requirements that may be satisfied by either spoke reflectors or

retroreflective tires. The Commission is now issuing amendments that will permit a third alternative for side reflectivity, retroreflective rims. They will provide flexibility to the industry and at least as much protection to bicycle riders. The Commission is taking this action in response to a petition from the 3M Company, which was granted in December 1978.

DATES: The amendments will become effective on January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Christine Nelson, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6400. The documents discussed in the preamble are available from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

SUPPLEMENTARY INFORMATION:

Background

The Commission issued a bicycle safety regulation in July 1974, and amended it in November 1975 (16 CFR Part 1512). The regulation became effective on May 11, 1976, except for certain provisions that became effective on November 13, 1976. In June 1977, a federal court of appeals upheld all but a few provisions of the regulation. *Forester* v. *Consumer Product Safety Commission*, 559 F. 2d 774 (D.C. Cir. 1977).

The relevant portion of the regulation (16 CFR 1512.16) requires bicycles to be recognizable and identifiable from the side, when illuminated by automobile headlamps. Either spoke-mounted reflectors or retroreflective tire sidewalls may be used, as long as they meet the specified performance criteria for side reflectivity. In addition, the regulation includes tests for assuring adherence and resistance to abrasion for retroreflective material used on tire sidewalls.

In a June 1978 petition (HP 78–8), the Minnesota Mining and Manufacturing Company (3M) requested amendments to the side reflectivity requirements that would permit the use of retroreflective rims as a third option on bicycles equipped with non-caliper-rim brakes (brakes that do not function by gripping the sides of the wheel rim). The Commission granted 3M's petition in December 1978.

Proposed Amendments

On May 19, 1980 the Commission proposed amendments to the existing bicycle regulation to permit retroreflective rims as a third option for side reflectivity (45 FR 32705). The existing regulation requires that the retroreflective material on bicycle tires be as resistant to abrasion as the adjacent tire sidewall itself. Further, the retroreflective material must not be capable of being peeled or scraped away without removal of tire material. Since the proposed amendments involved the application of retroreflective material to metal, two new tests, one for abrasion and one for peeling, were needed to assure the durability of the retroreflective material on any rims that would be used to comply with the side reflectivity requirements. The proposed amendments required retroreflective rims to meet these reflectivity requirements after the abrasion and peeling tests are performed.

The preamble to the proposed amendments contained full discussions of the two tests and the expected economic and injury effects of the amendments:

a. Abrasion Test

The National Bureau of Standards (NBS) and the CPSC engineering staffs developed the proposed abrasion test. It was designed to assure that retroreflective material on rims would not unduly lose its reflective properties when exposed to normal bicycle operating conditions.

Under contract to the Commission, NBS developed an abrasion test procedure that is based on a General Services Administration (GSA) test method for measuring paint scrub resistance. The GSA procedure evaluates the scrub resistance of paint that is applied to specially-described pieces of metal, and cannot be used on rims without modification. At the same time, the post-abrasion side reflectivity tests can be performed meaningfully only if the entire rim is abraded. Therefore, NBS modified the scrub resistance procedure so that the test could be performed on a bicycle wheel rim.

NBS devised a test apparatus in which a rotating brush abrades a revolving rim. Any apparatus can be used as long as four critical factors for the test are maintained: (1) The size and type of bristles on the brush; (2) the force with which the brush is applied to the rim; (3) the speeds of the rotating brush and revolving rim; and (4) the number of rim revolutions.

The petition granted by the Commission stemmed from 3M's development of a self-adhesive retroreflective tape that can be applied to metal bicycle rims. Similar 3M tape has been used on street signs, automobile license plates, and vehicle parking stickers for many years without significant degradation in reflectivity from weather and other deleterious factors. The 3M tape has also been road-tested on bicycle rims with similar results. The test and use data on the 3M tape are contained in an August 15, 1978 letter from 3M and in 3M's petition.

At the present time, the 3M tape is the only retroreflective material that the Commission knows is suitable for application to bicycle rims. Therefore, it was used as a guide for establishing the proposed abrasion test specifications. However, any other retroreflective tapes or coatings developed for this purpose are acceptable as long as they can meet the reflectivity requirements after being subjected to the abrasion test described herein.

To establish the appropriate specifications for the four critical factors, NBS and CPSC staff attempted to attain a degree of abuse similar to that which would be experienced during the GSA paint scrub resistance test.

For example, the velocity of the bicycle wheel in the proposed test was selected to approximate the velocity at which the metal pieces are stroked by the brush in the GSA test. Since the brush in the proposed bicycle rim test must be smaller than the brush specified in the GSA test so that it fits the rim, the applied force was reduced to maintain the appropriate pressure between the bristles and the reflective material. Finally, a rotational component of velocity was added to assure that abrasion will take place uniformly over the width of the reflective material.

Some degradation in the reflectivity of the 3M tape occurred when it was subjected to the proposed abrasion test. Since this tape exceeds the reflectivity requirements when new, and continues to meet the requirements after being tested, an extra margin of safety exists. The Commission expressed its belief that the proposed test specifications would assure the satisfactory performance of any other retroreflective material that might be developed in the future for use on bicycle rims.

The details of how NBS and the Commission staff developed the abrasion test and selected the proposed specifications are contained in a November 1, 1979 report from NBS, "Bicycle Wheel Rim Reflective Materials", and a February 28, 1980 staff memorandum, "Peel and Abrasion Tests for Amendment to Bicycle Regulation Requirements for Side Reflectivity."

b. Peel Test

According to the proposed amendments, retroreflective material could be applied to bicycle rims as a

coating, such as paint, or as a tape, such as 3M's. If a tape is used, it must not be too easy to peel off. A vandal or a curious child could totally deprive a rim of its reflectivity in seconds by peeling the tape off in one piece around the entire rim. To prevent this, the proposed amendments included a peel test for retroreflective tape.

The proposed test required, very simply, that the tape material break before it peels. This test, performed by grasping a piece of the tape between the fingers and pulling on it, was similar to a peel resistance test published by the American Society for Testing and Materials (ASTM). Although the ASTM test measures pulling force, the purpose of the proposed test was to assure that the tape cannot be peeled off. Therefore, the proposed test specified no particular force but simply required that the tape must break rather than peel away.

c. Economic Effects and the Injury Risk

Although exact costs of retroreflective rims on a per-bicycle basis would depend on actual volume of sales, the Commission considered it likely that the cost to bicycle manufacturers would be competitive with the cost of a set of spoke reflectors. The Commission did not expect the retail price of bicycles to increase because of adoption of the proposed amendments.

Acceptance by bicycle manufacturers and consumers will determine the extent to which retroreflective rims replace other side reflectivity devices. Officials for firms manufacturing spoke reflectors had indicated to the Commission staff little concern regarding the proposed amendments due to bicycle manufacturers' and consumers' satisfaction with their product.

The Commission stated its belief that the proposed amendments would impose no economic burden on manufacturers or consumers. Rather, the amendments were expected to provide a greater choice of acceptable methods of side reflectivity for bicycles. Regardless of the alternative selected, all bicycles would be required to meet specified reflectivity requirements. Therefore, riders would be protected as fully as they are now protected.

Public comments

The Commission received four public comments on the amendments it proposed in May 1980. Three consumers generally supported the concept of reflectivity requirements for bicycles, but none of them discussed the proposed amendments. These consumers also expressed concerns about overall safety problems associated with bicycle and motor vehicle traffic.

The fourth comment came from the Bicycle Manufacturers Association of America (BMA), a trade association representing four companies that account for approximately 80 percent of domestic bicycle production. A number of BMA's comments pointed out typographical errors in the proposed amendments:

(a) In § 1512.18(o)(2)(i), the measurement "(0.79 inc.)" should appear as "(0.79 in.)."

(b) In § 1512.18(o)(2)(iii), the word "radition" should be "radiation."

(c) In §1512.18(o)(2)(iv), the phrase "ration A" should be "ratio A."

(d) In § 1512.18(r)(1), the measurement "(0.45 lb)" should appear as "(0.45 lbf)."

The Commission has found two additional typographical errors where the symbol "lb" should have been "lbf" (§§ 1512.18(r)(3)(iii) and 1512.18(r)(4)(v)). All typographical errors have been corrected in the final amendments issued below.

Another BMA comment resulted from a typographical error. The proposed amendments appeared to be design restrictive because they included a provision that "[t]he retroreflective material is applied to the rim in the form of a self-adhesive tape * * *" (§ 1512.16(i)(1)). This conflicts with the statement in the preamble that tapes *or coatings* would be acceptable. However, language inadvertently dropped from the proposal clarifies that the reflectivity material need not be tape. The correct provisions state:

(1) *The retroreflective material shall form a continuous circle on the rim.*

(2) *If* the retroreflective material is applied to the rim in the form of a self-adhesive tape, the following requirements must be met: * * *"

(The words omitted from the proposal appear in italics.) The final amendments, issued below, state the requirements correctly.

The final BMA comments concern the way that certain measurements are expressed in the amendments. BMA suggests that the metric system be used and that English equivalents be provided in parentheses (§ 1512.18(r)(3)(v) and (4)(iv)).

Throughout the bicycle regulation, metric units and English units are specified. To avoid uncertainty or confusion, the regulation clarifies that "[f]or the purpose of compliance with this part, where the metric and English units are not equal due to the conversion process the less stringent requirement will prevail" (§ 1512.3). Like the regulation itself, the amendments generally specify measurements in metric units, with the English equivalents in parentheses.

However, both provisions cited by BMA concern the particular brush that the Commission will use in the abrasion test, for compliance purposes (see footnote 6 in § 1512.18(r)(3)(v)). The reason that only English units were specified in the proposed provisions is that the manufacturer of the brush uses English units. For convenience, we are providing the *approximate* metric equivalent, rounded to the nearest millimeter, in parentheses after the English unit when describing the abrader brush. Therefore, while the Commission continues to believe that English units provide the most accurate description of the brush to be used in compliance testing, metric units are included for reference.

Conclusion

After reviewing the public comments, the Commission continues to believe that permitting a third alternative for bicycles to comply with the side reflectivity requirements will benefit consumers and industry. New technologies for rim reflectivity might prove to be more effective than spoke and tire reflectivity and the costs to consumers and the industry might prove to be lower. However, even if no measurable cost benefits are achieved, the amendments assure that bicycle riders will be protected as well as they are now and that an additional method will be available for complying with these side reflectivity requirements in the standard.

The Commission also believes that no substantive changes are needed to the amendments that were proposed in May 1980. As issued below, the amendments establish performance criteria that will enable any interested manufacturer to use rim reflectivity on its bicycles.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), (q)(1)(A), (s); 3(e)(1); 10; 74 Stat. 1304–05, 83 Stat. 187–89; 15 U.S.C. 1261, 1262, 1269) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission amends 16 CFR Part 1512 as follows:

1. Section 1512.16(b) is amended to read as follows:

§ 1512.16 Requirements for reflectors.

* * * * *

(b) *Side reflectors.* There shall be retroreflective tire sidewalls or, alternatively, reflectors mounted on the spokes of each wheel, or, for non-caliper rim brake bicycles, retroreflective wheel rims. The center of spoke-mounted

reflectors shall be within 76 mm (3.0 in.) of the inside of the rim. Side reflective devices shall be visible on each side of the wheel.

* * * * *

2. A new § 1512.16(i) is added as follows:

(i) *Retroreflective rims.* When retroreflective rims are used in lieu of spoke-mounted reflectors or retroreflective tire sidewalls, the reflecting material shall meet the following requirements:

(1) The retroreflective material shall form a continuous circle on the rim.

(2) If the retroreflective material is applied to the rim in the form of a self-adhesive tape, the following requirement must be met: Use a sharp knife, razor blade, or similar instrument to carefully release an end of the tape material sufficient to be grasped between the thumb and finger. Grasp the freed tape end and gradually pull in a direction 90° to the plane of the rim. The tape material must break before additional separation (peeling) from the rim is observed.

(3) After the retroreflective material is abraded in accordance with the abrasion test for retroreflective rims at § 1512.18(r), the rim must then be tested for performance in accordance with the retroreflective tire and rim test at § 1512.18(o), to assure the reflectance properties over the angles given in table 3.

§ 1512.18 [Amended]

3. Section 1512.18(o) is amended to read as follows:

* * * * *

(o) Reflective tire and rim test (Ref. § 1512.16(h) and (i))—(1) *Apparatus.* Arrangements for the reflective intensity measurement shall be as shown in figure 3 of this Part 1512. A light projector (having a maximum effective lens diameter of $D/500$, where D is the distance from the source to the retroreflective surface being measured) capable of projecting light of uniform intensity shall be used to illuminate the sample. The light falling on the sample shall have a color temperature of 2856°K+*10%* (equivalent to a tungsten filament lamp operated at a color temperature of 2856°K+*10%* having approximately the relative energy distribution given in table 4 of this Part 1512). The light reflected from the test surface shall be measured with a photoelectric receiver, the response of which has been corrected for the spectral sensitivity of the average photopic human eye. The dimensions of the active area of the receiver shall be such that no point on the perimeter of the receiver is more than $D/100$ from its center (where d is the distance from the receiver to the retroreflective surface). Wheels used for the measurement of retroreflective tires or rims shall have all exposed metallic surfaces, including spokes, masked in flat black so that when measured these surfaces indicate no appreciable reflectance. The tire shall be mounted and fully inflated. Distances shall be measured from the plane of the wheel and the center of the hub. For the tests, the distance D between the projector and the center of the wheel and distance d between the center of the wheel and the receiver shall each be at least 15 m (50 ft.).

(2) *Procedure*—(i) *Masking.* The reflecting strip to be tested shall be within two concentric circles, the larger of which is no more than 0.02 m (0.79 in.) greater in radius than the smaller. While additional reflecting material is permitted outside such boundaries, such additional material shall not be counted in determining the average width of the reflecting strip and shall be masked off with opaque, matte black tape in testing the reflecting material.

(ii) *Orientation.* Every position of the reflecting strip on the rim or the mounted and fully inflated tire to be tested shall be oriented so that the normal to this portion is within 40° of parallel to the axis of rotation of the wheel.

(iii) *Measurement.* Measure the distance d from the receiver to the center of the wheel and the minimum distance r from the axis of rotation of the wheel to the unmasked portion of the reflective strip. Measure the illumination incident on the reflective strip at uniform intervals of no more than 45° around the wheel, with the receiver oriented in the direction of the incident radiation. The average of such readings will be the mean illumination of the sample E. If any one of such readings differs by more than 10 percent from the mean illumination, then a more uniform source must be obtained. Measure the illumination of the receiver due to reflection from the retroreflective surface for each entrance angle and each observation angle given in table 3 of this Part 1512. The entrance angle and the observation angle shall be in the same plane. A negative entrance angle (figure 3 of this Part 1512) is specified when the entrance angle is small because the location of the receiver with respect to the direction of illumination becomes important for distinguishing between ordinary mirror-like reflection and retroreflection. The illumination incident on the test surface and the receiver shall be measured in the same units on a linear scale. Compute the ratio A for each combination of entrance angle and observation angle listed in table 3 as follows:

$$A=[(E_r/E_s)(d^2/r)]$$

Where:

A = Ratio in meters,
E_r = Illumination incident upon the receiver,
E_s = Illumination incident upon a plane perpendicular to the incident ray at the specimen position (see instructions above in this paragraph (o)(2)(iii) for averaging), measured in the same units as E_r,
d = The distance in meters from the receiver to the center of the wheel,
r = The minimum radius in meters of the boundary circles of the retroreflective strip.

The minimum value of A shall be that listed in table 3 of this Part 1512 for each combination of entrance angle and observation angle. The plane containing the entrance angle and the plane containing the observation angle shall coincide. In table 3, a positive entrance angle corresponds to the case in which the line of sight to the receiver lies between the line of incidence and the optic axis of the reflector, and a negative entrance angle corresponds to the case in which the line of incidence lies between the line of sight of the receiver and optic axis of the reflector.

(iv) *Criteria.* The ratio A as defined in § 1511.18(o)(2)(iii) shall not be less than:

$$A=[4(\cos^2\ominus/1+(o/0.225)^{3/2}]$$

where A is ratio in meters, $\ominus$ is the entrance angle, and o is the observation angle in degrees. The criterion applies only for entrance angles from 0° to 40° and observation angles from 0.2° to 1.5°, and performance is not specified beyond this range. The values of A in table 3 are obtained from the above formula by rounding up to two significant figures. Except in cases in which the performance of the reflector is seriously questionable, a reflector with A at least the value given in table 3 at each of the six combinations of entrance and observation angles will be considered to satisfy this criteria.

* * * * *

4. A new § 1512.18(r) is added as follows:

* * * * *

(r) *Abrasion test for retroreflective rims.* (Pef. 1512.16(i).) (1) This test consists of a steel wire cup brush rotating at a constant velocity of 60 rpm that is applied at a force of 2 N (0.45 lbf) to the retroreflective material on one side of a bicycle wheel rim. The rim is rotated about the axle at a linear velocity of 0.23 m/sec (9 in./sec). The test is complete when the wheel has completed 1000 revolutions.

(2) *Apparatus.* Figure 8 of this Part 1512 illustrates the following test fixture

arrangement that is suitable to perform this abrasion test:

(i) *Test fixture.* The test fixture contains a clamp to hold the axle of a bicycle wheel so that the wheel can rotate freely about the axle. The axis of rotation is capable of being inclined from the vertical to bring that portion of the side of the wheel rim containing the retroreflective material into a horizontal plane as it passes beneath the abrading brush. A drive mechanism to rotate the bicycle wheel contains a means to adjust the rotational velocity to obtain the specified linear velocity measured at a point on the wheel rim on the axis of the abrading brush.

(ii) *Abrader.* The abrader is a cup brush meeting the specification in paragraph (r)(3)(v) of this section. It is mounted in a chuck attached to a motor that rotates about a vertical axis at the specified rotational velocity. A means is provided to apply the rotating cup brush at the specified force against the retroreflective material on the bicycle wheel rim. The axis of the abrading brush is positioned on the mid point in the width of the retroreflective material. The force is produced by deadweights applied to a pan on the axis of the counterbalanced motor/brush assembly.

(3) *Specifications.* (i) The linear velocity of the reflective band on wheel rim shall be 0.23 m/sec (9 in./sec) measured at a point on the axis of the abrading brush.

(ii) The rotational velocity of the abrading brush shall be 60 rpm.

(iii) The force normal to the plane of the retroreflective material at which the abrading brush is to be applied shall be 2 N (0.45 lbf).

(iv) The bicycle wheel shall make 1000 complete revolutions per test.

(v) The abrader shall be a cup brush having bristles that are 0.005 in. (approx. 13mm) diameter low carbon steel wire; an outside diameter of 0.5 inch (aprox. 13mm); a wire bristle length of 0.25 inch (approx. 6.4mm); and a cup diameter of 0.405 inch (approx. 10.29mm).[6]

(vi) The abrasion test shall be conducted at an ambient temperature of between 16°C (60°F) and 27°C (80°F).

(4) *Procedure.* (i) The retroreflective bicycle rim to be tested shall be an unused sample free from grit, grime and grease. Prior to beginning the test, remove, according to instructions supplied with the bicycle, any protective coating or material used to prevent damage in shipping.

[6] For compliance testing the Commission will use a brush meeting this description distributed by Dremel Manufacturing Company, Racine, Wisconsin as Dremel Part No. 442. This brush is manufactured by Weiler Brush Company as No. 26074, MC–10 Wire.

(ii) Test the wheel in a suitable test fixture, according to the specifications in paragraph (r)(3) of this section.

(iii) Clamp the wheel by its axle in the test fixture and align the axis of rotation so that the portion of the reflective material below the axis of the abrading brush is horizontal.

(iv) Shape the cup brush by hand to the specified 0.5 (approx. 13mm) diameter. Any stray wire bristles projecting more than 1/32 in. (approx. 1 mm) beyond the tip of the bulk of the bristles should be clipped off. Adjust the position of the brush so that its axis is centered over the mid-point in the width of the retroreflective material.

(v) Adjust the rotational velocity of the bicycle wheel to obtain a linear velocity of 0.23 m/sec (9 in./sec) measured at the mid-point in the width of the retroreflective material. Adjust the force to obtain a force normal to the surface under the brush of 2 N (0.45 lbf).

(vi) Apply the abrading brush to the retroreflective material on the wheel rim, and continue the test for 1000 complete revolutions of the bicycle wheel.

5. A new figure 8 is added.

BILLING CODE 6355–01–M

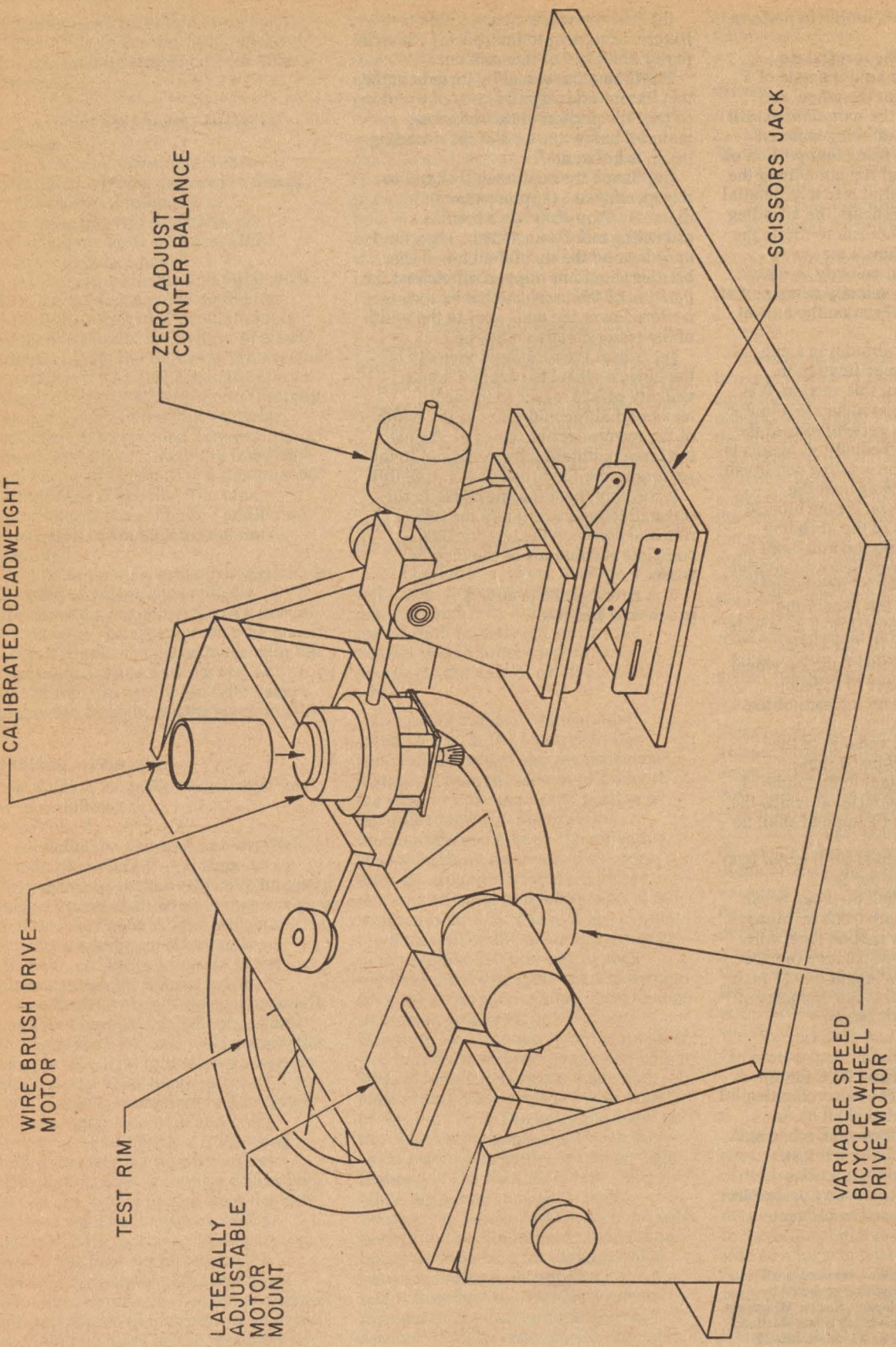

FIG 8—REFLECTORIZED BICYCLE WHEEL RIM ABRASION TEST DEVICE

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6. The title of table 3 is amended to read:

Table 3.—Minimum Acceptable Values for the Quantity—as Defined in the Retroreflective Tire and Rim Test Procedure

* * * * *

Effective date: January 15, 1981.

(Secs. 2(f)(1)(D), (q)(l)(A), (s); 3(e)(1), and 10; 74 Stat. 1304–05, 83 Stat. 187–89; 15 U.S.C. 1261, 1262, 1269)

Dated: December 3, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-37958 Filed 12-5-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Parts 0 and 58

[Order No. 921-80]

Relating to Bankruptcy Matters

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order has two purposes. The first is to issue, as a final rule, without substantive change, the Department of Justice Regulations Relating to the Bankruptcy Reform Act of 1978, which were published and made immediately effective as interim regulations on January 11, 1980 (45 FR 2316). The second is to reassign to the Associate Attorney General functions concerning the appointment and compensation of standing trustees in certain bankruptcy cases and of Assistant United States Trustees that were previously delegated to the Deputy Attorney General (44 FR 57926). In making the reassignment the order will clarify the extent of the authority previously delegated and will authorize the Associate Attorney General to redelegate it.

EFFECTIVE DATES: The Regulations Relating to the Bankruptcy Reform Act of 1978 (section 1 of this order) will be effective on January 15, 1981. Sections 2 and 3 of this order are effective on December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Richard L. Levine, Director, Executive Office for United States Trustees, U.S. Department of Justice, Washington, D.C. 20530 (202–633–5122).

SUPPLEMENTARY INFORMATION: The Regulations Relating to the Bankruptcy Reform Act of 1978, to be codified as 28 CFR Part 58, were issued as an interim rule effective on January 11, 1980 (45 FR 2316). Comments on the interim regulations were solicited. No significant comments have been received and the regulations are now being issued, without substantive change, as a final rule. This final rule will be effective 30 days from the date of its publication in the **Federal Register** (January 15, 1981). Until the effective date of the final rule, the interim regulations remain in effect.

By a final rule published on October 19, 1979 (44 FR 57926) the Attorney General delegated to the Deputy Attorney General authority (1) to appoint Assistant United States Trustees and set their compensation and (2) to approve the appointment by United States Trustees of standing trustees in Chapter 13 bankruptcy cases and, after consultation with the appropriate United States Trustee, to fix the compensation for such standing trustees as provided in 28 U.S.C. 586(e). Section 586(e)(1) authorizes the Attorney General to fix both a maximum annual compensation for each standing trustee and a percentage fee which the standing trustees may collect in the cases which he handles under Chapter 13 of Title 11, United States Code. The source of the compensation of the standing trustee is the percentage fee. The prior rule did not clearly state that the Attorney General, in delegating to the Deputy Attorney General authority to fix the compensation of standing trustees, was also delegating the concomitant authority to set the percentage fees. Section 2 of this order reassigns the function discussed, including the setting of the percentage fees, to the Associate Attorney General. Section 2 also authorizes the Associate Attorney General to redelegate the authority conferred thereby.

Section 3 revokes the authority previously delegated to the Deputy Attorney General.

Sections 2 and 3 deal with matters of agency management and are exempt from the provisions of 5 U.S.C. 553.

Accordingly, by virtue of the authority vested in me by 5 U.S.C. 301, and 28 U.S.C. 509, 510, 586, it is hereby ordered as follows:

1. Part 58, to read as follows, is added to Chapter 1 of Title 28, Code of Federal Regulations:

PART 58—REGULATIONS RELATING TO THE BANKRUPTCY REFORM ACT OF 1978

Sec.

58.1 Authorization to establish panels of private trustees.
58.2 Authorization to appoint standing trustees.
58.3 Qualification for membership on panels of private trustees.
58.4 Qualification for appointment as standing trustees.
58.5 Non-discrimination in appointment.

Authority: 28 U.S.C. 509, 510, 588(d).

§ 58.1 Authorization to establish panels of private trustees.

(a) Each United States Trustee is authorized to establish a panel of private trustees (the "panel") pursuant to 28 U.S.C. 588(a)(1).

(b) Each United States Trustee is authorized, with the approval of the Director, Executive Office for United States Trustees (the "Director") to increase or decrease the total membership of the panel. In addition, each U.S. Trustee, with the approval of the Director, is authorized to institute a system of rotation of membership or the like to achieve diversity of experience, geographical distribution or other characteristics among the persons on the panel.

§ 58.2 Authorization to appoint standing trustees.

Each United States Trustee is authorized, subject to the approval of the Associate Attorney General, or his delegate, to appoint and remove one or more standing trustees to serve in cases under Chapter 13 of Title 11, United States Code.

§ 58.3 Qualification for membership on panels of private trustees.

(a) To be eligible for appointment to the panel and to retain eligibility therefor, an individual must possess the qualifications described in paragraph (b) of this section in addition to any other statutory qualifications. A corporation or partnership may qualify as an entity for appointment to the private panel. However, each person who, in the opinion of the United States Trustee or of the Director, performs duties as trustee on behalf of a corporation or partnership must individually meet the standards described in paragraph (b) of this section, except that each United States Trustee, with the approval of the Director, shall have the discretion to waive the applicability of paragraph (b)(6) of this section as to any individual in a non-supervisory position. No professional corporation, partnership, or similar entity organized for the practice of law or accounting shall be eligible to serve on the panel.

(b) The qualifications for membership on the panel are as follows:

(1) Possess integrity and good moral character.

(2) Be physically and mentally able to satisfactorily perform a trustee's duties.

(3) Be courteous and accessible to all parties with reasonable inquiries or comments about a case for which such individual is serving as private trustee.

(4) Be free of prejudices against any individual, entity, or group of individuals or entities which would interfere with unbiased performance of a trustee's duties.

(5) Not be related by affinity or consanguinity within the degree of first cousin to any employee of the Executive Office for United States Trustees of the Department of Justice, or to any employee of the office of the United States Trustee for the district in which he or she is applying.

(6)(i) Be a member in good standing of the bar of the highest court of a state or of the District of Columbia; OR

(ii) Be a certified public accountant; OR

(iii) Hold a bachelor's degree from a full four-year course of study (or the equivalent) of an accredited college or university (accredited as described in Part II, § III of Handbook X118 promulgated by the United States Office of Personnel Management) with a major in a business-related field of study or at least 20 semester-hours of business-related courses; or hold a master's or doctoral degree in a business-related field of study from a college or university of the type described above; OR

(iv) Be a senior law student or candidate for a master's degree in business administration recommended by the relevant law school or business school dean and working under the direct supervision of:

(A) A member of a law school faculty; or

(B) A member of the panel of private trustees; or

(C) A member of a program established by the local bar association to provide clinical experience to students; OR

(v) Have equivalent experience as deemed acceptable by the United States Trustee.

(7) Be willing to provide reports as required by the United States Trustee.

(8) Have submitted an application under oath, in the form prescribed by the Director, to the United States Trustee for the District in which appointment is sought: *Provided,* That this provision may be waived by the United States Trustee on approval of the Director.

§ 58.4 Qualification for appointment as standing trustee.

To be eligible for appointment as a standing trustee, an individual must have the qualifications for membership on a private panel of trustees set forth in § 58.3. An individual need not be an attorney to be eligible for appointment as a standing trustee. A corporation or partnership may be appointed as standing trustee only with the approval of the Director.

§ 58.5 Non-discrimination in appointment.

The United States Trustees shall not discriminate on the basis of race, color, religion, sex, national origin or age in appointments to the private panel of trustees or of standing trustees and in this regard shall assure equal opportunity for all appointees and applicants for appointment to the private panel of trustees or as standing trustee. Each United States Trustee shall be guided by the policies and requirements of Executive Order No. 11478 of August 8, 1969, relating to equal employment opportunity in the Federal Government, section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e–16), section 15 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 633a), and the regulations of the United States Civil Service Commission relating to equal employment opportunity (5 CFR Part 713).

2. Section 0.19 of Title 28, Code of Federal Regulations, is amended to read as follows:

§ 0.19 Associate Attorney General.

(a) * * *

(1) Exercise the power and authority vested in the Attorney General to take final action in matters pertaining to:

(i) Except as assigned to the Deputy Attorney General by § 0.15(b)(3), the employment, separation, and general administration of personnel in General Schedule grades GS–16 though GS–18, or the equivalent, and of attorneys regardless of grade or pay in the Department;

(ii) The appointment of Assistant United States Trustees when the public interest so requires, and fixing their compensation, and;

(iii) The approval of the appointment by a United States Trustee of one or more individuals to serve as standing trustee in cases arising under Chapter 13 of Title 11, United States Code, and, after consultation with the United States Trustee, fixing the maximum annual compensation and percentage fee for such standing trustee as provided in 28 U.S.C. 586(e).

* * * * *

(b) The Associate Attorney General may redelegate the authority provided in paragraph (a)(1) of this section to take final action in matters pertaining to the employment, separation, and general adminstration of attorneys in grade GS–15 and below and to the appointment and commpensation of Assistant United States Trustees to a Deputy Associate Attorney General. The Associate Attorney General may redelegate the authority provided in subparagraph (a)(1)(iii) of this section to an Assistant Attorney General or to the Director, Executive Office for United States Trustees.

§ 0.15 [Amended]

3 Section 0.15(b)(3) of Title 28, Code of Federal Regulations, is amended by the revocation of paragraphs (b)(3)(iii) and (iv).

Dated: December 9, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-39027 Filed 12-15-80; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1676-6]

Approval and Promulgation of Implementation Plans, Florida; Reformation of Air Pollution Rule—Chapter 17-2.

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: The State of Florida has revised the format of the Rules and Regulations Portion of its State Implementation Plan. The revised format was adopted by the State of Florida on June 8, 1978. EPA published a proposal to adopt the revised format on July 2, 1979 (44 FR 38578). No comments were received during the designated comment period. EPA is today announcing approval of the revised form.

DATES: This action is effective January 15, 1981.

ADDRESSES: Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

EPA Region IV, Air and Hazardous Materials Division, 345 Courtland Street, NE, Atlanta, Georgia 30365

Public Information Reference Unit, Library Systems Branch, EPA, 401 M Street, SW, Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20460

Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Archie Lee, Air Programs Branch, Air and Hazardous Materials Division, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10858) the Administrator approved the Florida State Implementation Plan (SIP) to attain and maintain the national ambient air quality standards. Section III of this plan contained provisions for the regulation of air emission sources throughout the State of Florida. The format of this section entitled Rules of the State of Florida, Department of Pollution control, Chapter 17-2, Air Pollution Control, was revised on July 1, 1976. On June 8, 1978, after a formal hearing was held by the Florida Environmental Regulation Commission, the State of Florida adopted the new format of Chapter 17-2. EPA's review of this revised format disclosed that the substantive requirements of these regulations were not changed. The following index to Chapter 17-2 was presented in the proposal notice of July 2, 1979 (44 FR 38578) and contains the previously effective and currently effective identifying numbers and titles.

Index

	Pre-June 8, 1978	Current
17-2.01	Declaration and Intent	Declaration and Intent.
17-2.02	Definitions	Definitions.
17-2.03	General restrictions	Best available control technology.
17-2.04	Prohibitive acts	Prevention of Significant Deterioration (PSD).
17-2.05	Ambient air quality standards.	Prohibitive acts.
17-2.06	Air pollution episode	Ambient air quality standards.
17-2.07	Sampling and testing	Air pollution episode.
17-2.08	Local regulations	Sampling and testing.
17-2.09	Public comment	Local regulations.
17-2.091	(N.A.)	Public comment.
17-2.10	Local government	(Repealed).
17-2.11	Low sulfur fuel shortage.	(Repealed).
17-2.12	Source test method	(Repealed).

Based on the above, EPA is today approving the reformatting of the Rules and Regulations of the Florida SIP. Accordingly, EPA's approval of this format change should not be construed as EPA's approval of any regulatory provisions of the SIP which have not previously been so approved.

Note.—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". EPA has reviewed these regulations and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of Florida's reformation of its Air Pollution Rule is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: November 20, 1980.

Douglas M. Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1980.

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

Subpart K—Florida

(1) In § 52.520, paragraph (c) is amended by adding subparagraph (24) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(24) Reformatting of the Rules and Regulations portion of the Florida State Implementation Plan, submitted on May 8, 1978, by the Florida Department of Environmental Regulation.

[FR Doc. 80-39055 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PP 7F1937/R291; PH-FRL 1704-1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide oxamyl (methyl *N*,*N*,-dimethyl-*N*-[methylcarbamoyl)-oxy]-1-thiooxamimidate) in or on the raw agricultural commodity root vegetables at 0.1 part per million (ppm). This regulation was requested by E. I. du Pont de Nemours and Co. This regulation will establish the maximum permissible level of oxamyl on root crop vegetables.

DATE: Effective on December 16, 1980.

ADDRESSES: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-303, 401 M St., SW., Washington, D.C. 20460, (202-426-2635).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of June 13, 1977 (42 FR 29956) that E. I. du Pont de Nemours and Co., Wilmington, DE 19895 had filed a pesticide petition (7F1937) with the EPA. The petition proposed the establishment of a tolerance for residues of the insecticide oxamyl (methyl *N*,*N*-dimethyl-*N*-[methylcarbamoyl)-oxy]-1-thiooxamimidate) in or on the raw agricultural commodity root crop vegetables at 0.1 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a two-year rat feeding/oncogenicity study and also a two-year dog feeding study with no-observable-effect levels (NOEL) of 50 ppm and 100 ppm, respectively; a three-generation rat reproduction study with a NOEL of 50 ppm; and a rat teratogenicity study which was negative. Based on the two-year chronic rat feeding/oncogenicity study with a NOEL of 50 ppm and using a safety factor of 100, the acceptable daily intake (ADI) for humans is 0.025 milligrams (mg)/kilogram (kg) of body weight (bw) per day. The theoretical maximum residue contribution (TMRC) in the human diet from the previously established tolerances at levels ranging from 0.1 ppm to 10 ppm and the proposed tolerance does not exceed the ADI.

Desirable data that are lacking from the petition are a second oncogenicity study and a second teratology study. In a letter of December 5, 1980, the petitioner indicated that the oncogenicity study is completed and is expected to be submitted to the agency by March 1981, and that the teratology study will be completed in late 1980. Although the evaluation of the

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

The metabolism of oxamyl is adequately understood, and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. No actions are currently pending against the continued registration of oxamyl nor are there any other relevant considerations involved in establishing the proposed tolerance. There is no problem of secondary residues in eggs, meat, milk, or poultry; therefore, § 180.6(a)(3) applies.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.1 ppm on root crop vegetables established by amending 40 CFR 180.303 will protect the public health. It is concluded, therefore, that the tolerance be established as set forth below.

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

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

Effective date: December 16, 1980.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e))).

Dated: December 9, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically inserting "root crop vegetables" in the table under § 180.303 to read as follows:

§ 180.303 Oxamyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Root crop vegetables	0.1
* * * * *	

[FR Doc. 80-38934 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Columbus, Nebraska, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Columbus, Nebraska. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Columbus, Nebraska, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removed the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 315272 Panel 0005B, published on October 6, 1980 in Vol. 45 FR 66108, indicates that Lot 5, Block B, Westbrook Addition, Columbus, Nebraska, as recorded in Book 169 of Deeds, Page 223, in the Office of the Register of Deeds, Platte County, Nebraska, is partially within the Special Flood Hazard Area.

Map No. H & I 315272 Panel 0005B is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on December 21, 1979. This lot is in Zone B.

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38898 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Newark, Ohio, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Newark, Ohio. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Newark, Ohio, that certain property is not within the special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood

insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with S 70.7(b):

Map No. 390335, Panel No. 0015C, published on October 6, 1980, in Vol. 45 FR 66086, indicates that a 0.516 acre parcel of land located in the City of Newark, Licking County, Ohio, as recorded in Volume 783, Pages 1012 through 1016, in the Office of the Recorder of Deeds of Licking County, Ohio, is located within the Special Flood Hazard Area.

Map No. 390335, Panel No. 0015C, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on March 28, 1980. The structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 24, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–38899 Filed 12–15–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for the City of Oklahoma City, Oklahoma, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Oklahoma City, Oklahoma. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Oklahoma City, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 405378A, Panels 104 and 105, published on October 23, 1979, in 44 FR 61021, indicates that Lots 2 through 13, Block 13, Westbury, Blocks 13–14–15; Lots 3 through 6 and 8 through 11, Block 18; Lots 9 through 13, Block 21; and Lot 8, Block 22, Westbury, Blocks 18–22 INCL.; and Lots 25 and 26, Block 23; and Lots 1, 5, 7, and 10 through 12, Block 25, Westbury, Blocks 23–24–25–26, Oklahoma City, Oklahoma, as recorded in Book 6, Page 24; Book 6, Page 36; and Book 7, Page 8, respectively, in the Office of the Clerk, Canadian County, Oklahoma, are within the Special Flood Hazard Area.

Map No. H & I 405378A, Panels 104 and 105 are hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on February 2, 1979. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–38900 Filed 12–15–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for the City of Tulsa, Oklahoma, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Tulsa, Oklahoma. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Tulsa, Oklahoma, that certain property is not within the special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting

Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 405381D Panel No. 112, published on October 23, 1979, in 44 FR 61021, indicates that Lot 7, Block 9, Marion Gardens, Tulsa, Oklahoma, recorded as Instrument Number 255993 in Book 3567, Page 434, in the Office of the Clerk, Tulsa County, Oklahoma, is within the Special Flood Hazard area.

Map No. H & I 405381D Panel No. 112 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on August 14, 1979. This lot is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38901 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of Aurora, Colorado, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the city of Aurora, Colorado. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Aurora, Colorado, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 080002 Panels 0015A and 0020A, published on October 23, 1979, in 44 FR 61024, indicates that all of Blocks 1 and 2; Lots 1 through 17, Block 3; Lots 1 and 7 through 16, Block 4; Lots 6 through 9, Block 5; Lots 9 and 10, Block 12; and Lot 6, Block 13, Brookvale Subdivision, Filing No. 2, Aurora, Colorado, recorded as Reception No. 1754661, Book 35, Pages 15 and 16, in the Office of the Recorder, Arapahoe County, Colorado, are within the Special Flood Hazard Area.

Map No. H & I 080002 Panels 0015A and 0020A is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on June 1, 1978. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38904 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of Hanceville, Alabama, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published . This list included the City of Hanceville, Alabama. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Hanceville, Alabama, that certain property is not within the special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free 800–424–9080)..

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender

now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 010059B, Panel 0005 published on October 23, 1979 in 44 FR 61014 indicates that a portion of land located in the Northwest Quarter of section 21, Township 11, Range 2 west, as recorded in Deed Book 303, Page 395 in the Clerk's Office of Cullman County, Alabama, is within the Special Flood Hazard Area.

Map No. H & I 010059B, Panel 0005 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on September 15, 1978. The property is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 23, 1968 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38905 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of Jacksonville, Florida, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Jacksonville, Florida. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Jacksonville, Florida that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 120077B Panel 09 published on October 23, 1979, in 44 FR 61014, indicates that Lots 1 through 8, 20 through 25, 27, 55, 74, 76, 78, 80 through 89 of Water Gate Subdivision and Lot 82 of Water Creek Subdivision, as recorded in Official Records Volumes 4170 and 4212, Pages 58 and 876, respectively, of the Public Records of Duval County, Florida are within the Special Flood Hazard Area.

Map No. H & I 120077B, Panels 09 are hereby corrected to reflect that the existing structures located on the above property are not within the Special Flood Hazard Area identified on December 1, 1977. The structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38906 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the Township of East China, Michigan; Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Township of East China, Michigan. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of East China, Michigan, that certain property is and that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject properties are and that subject properties are not within the Special Flood Hazard Area, removes or mandates the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or

broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with S 70.7(b).

Map No. 260197, Panel No. 0005B, published on October 23, 1979, in 44 FR 61018 indicates that Lots Nos. 29 and 34, Belle View Estates Subdivision, Township of East China, St. Clair County, Michigan, as recorded in Liber 84, Pages 5 through 9, in the Office of the Register of Deeds of St. Clair County, Michigan, are located within the Special Flood Hazard Area. Furthermore, the same map and panel also indicates that Lots Nos. 21 through 24 and Lots Nos. 42 through 46, Belle View Estates Subdivision, are not located within the Special Flood Hazard Area.

Map No. 260197, Panel No. 0005B, is hereby corrected to reflect that Lots Nos. 29 and 34 are not within the Special Flood Hazard Area identified on July 3, 1978. The lots are in Zone B. In addition, the map is further corrected to reflect that Lots Nos. 21 through 24 and Lots Nos. 42 through 46, are within the Special Flood Hazard Area identified on July 3, 1978. The lots are in Zone A.

(National Flood Insurance Act of 1968 (Title XIII Of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 F.R. 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38907 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the Borough of Norristown, Montgomery County, Pennsylvania; Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Borough of Norristown, Montgomery County, Pennsylvania. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Norristown, Montgomery County, Pennsylvania, that certain property is within the special Flood Hazard Area.

This map amendment, by establishing that the subject property is within the Special Flood Hazard Area, mandates the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872.

The Map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 425386A, Panel No. 02, published on October 23, 1979 in 44 FR 61011, indicates that a parcel of land, being known as 220 Mill Street, Borough of Norristown, Montgomery County, Pennsylvania, as recorded in Deed Book 4207, pages 310 and 311, in the Office of the Recorder of Montgomery County, Pennsylvania, is not located within the Special Flood Hazard Area.

Map No. H & I 425386A, Panel No. 02, is hereby corrected to reflect that the above-mentioned property is within the Special Flood Hazard Area identified on December 5, 1975. The structure is in Zone A.

(National Flood Insurance Act of 1968 (Title XIII Of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 F.R. 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38909 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Arlington, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Arlington, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Arlington, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 485454 Panel 0020B, published on October 6, 1980 in Vol. 45 FR 66097 indicates that Lots 1 through 7, Block 3; and Lots 1 through 9 and 15 through 17, Block 5, Rush Springs, Arlington, Texas, as recorded in Volume 388–121, Page 51 of Plat Records, in the Office of the County Clerk, Tarrant County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 485454 Panel 0020B is hereby corrected to reflect that Lots 15 through 17, Block 5, are not within the Special Flood Hazard Area identified on June 20, 1980. These lots are in Zone C.

Map No. H & I 485454 Panel 0020B is also corrected to reflect that the existing structures for Lots 2 and 4 through 7,

Block 3; and Lots 6 and 7, Block 5, are not within the Special Flood Hazard Area identified on June 20, 1980. These structures are in Zone B.

Map No. H & I 485454 Panel 0020B is also corrected to reflect that the existing structures for Lots 1 and 3, Block 3; and Lots 1 through 5, 8, and 9, Block 5, are not within the Special Flood Hazard Area identified on June 20, 1980. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38910 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of El Cajon, California, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of El Cajon, California. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of El Cajon, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 060289 Panel 0001B, published on October 23, 1979, in 44 FR 61025, indicates that Lots 1 through 13, Fletcher Hills Meadows, Unit No. 6, El Cajon, California, recorded as Map No. 9445, File No. 79–458767, in the Office of the Recorder, San Diego County, California, are located within the Special Flood Hazard Area.

Map No. H & I 060289 Panel 0001B is hereby corrected to reflect that the above mentioned lots, with the exception of the area designated for Drainage Easement on the recorded Plat Map cited above, are not within the Special Flood Hazard Area identified on September 15, 1977. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38911 Filed 12-15-80; 8:45 am]

BILLING CODE 4210-23-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Mesa, Arizona, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Mesa, Arizona. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Mesa, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 040048 Panel 0020B, published on October 6, 1980 in Vol. 45 FR 66116 indicates that Lots 222 through 225 and 319, Meadowgreen, Unit Two, Mesa, Arizona, as recorded in Book 214, Page 2, in the Office of the Recorder, Maricopa County, Arizona, are within the Special Flood Hazard Area.

Map No. H & I 040048 Panel 0020B is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on May 15, 1980. These lots are in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42

U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: December 2, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38912 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Palo Alto, California, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Palo Alto, California. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Palo Alto, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 060348 Panel 0003C, published on October 6, 1980 in Vol. 45 FR 66118 indicates that Lots 1 through 7, Tract No. 5960, Palo Alto, California, recorded as Document No. 5880662 in Book 409 of Maps, Pages 47 and 48, in the Office of the Recorder, Santa Clara County, California, are within the Special Flood Hazard Area.

Map No. H & I 060348 Panel 0003C is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on February 15, 1980. These lots are in Zone B.

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 [33 FR 17804, November 28, 1968], as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 12, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38913 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Riverside County, California, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Riverside County, California. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Riverside County, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 060245 Panel 2125A, published on October 6, 1980 in Vol. 45 FR 66118 indicates that all of Block 35 and Lots 1 through 4 and 9 through 12, Block 36, Map of Parsons Survey of the Town of Winchester, Riverside County, California, as recorded in Map Book 2, Page 11, in the Office of the Recorder, Riverside County, California, are within the Special Flood Hazard Area.

Map No. H & I 060245 Panel 2125A is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on April 15, 1980. These lots are in Zone C.

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 [33 FR 17804, November 28, 1968], as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 12, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-38914 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, telephone (800) 638-6620.

The map amendments listed below are in accordance with S70.7(b):

Map No. H & I 480287B Panel 52, published on October 23, 1979, in 44 FR 61022, indicates that all of Block 1; Lots 1 through 8, Block 2; Lots 1 through 3, 64, and 65, Block 4; Lots 5 through 48, Block 5; Lots 1 through 14 and 47 through 58, Block 6; Lot 1, Block 10; and Unrestricted Reserves "A" and "B," proposed Inwood Forest Village, being a 75.1078 acre tract of land out of a 84.4804 acre tract of land of the Phillip Thompson Survey A-768, Harris County, Texas, as recorded in Film Code Nos. 137-99-2292 through 137-99-2297, in the Office of the County Clerk, Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 52 is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on July 30, 1976. These properties are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38915 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480287B Panel 51, published on October 23, 1979, in 44 FR 61022, indicates that all of Blocks 1 and 2; Lots 1 through 6, Block 3; Lots 1 through 14 and 25 through 35, Block 4; Lots 1 through 6 and 16 through 25, Block 6; Lots 1 through 6, Block 7; and all of Blocks 8 and 9, Creekside Estates South, Harris County, Texas, as recorded in Volume 271, Page 73 of Map Records, in the Office of the Clerk, Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287B, Panel 51 is hereby corrected to reflect that the above mentioned property, with the exception of the area dedicated to Harris County Flood Control District for widening of Rolling Fork Creek as shown on the recorded plat map cited above, is not within the Special Flood Hazard Area identified on July 30, 1976. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: October 24, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38916 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480287B Panel 61, published on October 23, 1979, in 44 FR 61022, indicates that Lot 25, Block 1; Lots 12 and 13, Block 2; Lots 14 through 17, Block 3; Lots 16 and 17, Block 4; and Restricted Reserve A (Recreational), Block 8, a Replat of Wood Fern, Section One, Harris County, Texas, as recorded in Volume 295, Page 40 of Map Records, in the Office of the Clerk, Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 61 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on July 30, 1976. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: October 24, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38917 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA./

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480287B Panel 43, published on October 23, 1979, in 44 FR 61022, indicates that Unrestricted Reserves A through D, Greenbriar North, Section One; all of Greenbriar North, Section Two; Unrestricted Reserves A, B, and D, Greenbriar North, Section Four; Unrestricted Reserve A, Greenbriar North, Section Five; all of Greenbriar North, Sections Six and Seven; and Unrestricted Reserves A, B, C, E, and F, Greenbriar North, Section Eight, as recorded in Volume 225, Page 72; Volume 225, Page 62; Volume 229, Page 15; Volume 229, Page 28; Volume 229, Page 139; Volume 230, Page 1; and Volume 287, Page 106 of Map Records, in the Office of the Clerk, Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 43 is hereby corrected to reflect that the above mentioned properties, with the exception of the areas designated for Drainage Easements on the recorded plat maps cited above, are not within the Special Flood Hazard Area identified on July 30, 1976. These properities are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38918 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-02-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of Garland, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the city of Garland, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Garland, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b).

Map No. H & I 485471 Panel 0030B, published on October 23, 1979, in 44 FR 61021, indicates that Lots 20 through 27, Block 8, La Prada No. 8, Garland, Texas, as recorded in Volume 79230, Page 2365, in the Office of the Clerk, Dallas County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 485471 Panel 0030B is hereby corrected to reflect that the existing structures on Lots 20 through 23 of the abovementioned property are not within the Special Flood Hazard Area identified on November 1, 1979. These structures are in Zone C.

Map No. H & I 485471 Panel 0030B is also corrected to reflect that Lots 24 through 27 of the abovementioned property are not within the Special Flood Hazard Area identified on November 1, 1979. These Lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII Of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38919 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of Grand Prairie, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Grand Prairie, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Grand Prairie, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 485472A Panel 13, published on October 23, 1979, in 44 FR 61021, indicates that Lots 17, Block A, Forum Terrace, First Increment, Grand Prairie, Texas, as recorded in Volume 388–118, Page 49 of Plat Records, in the Office of the Recorder, Tarrant County, Texas, is within the Special Flood Hazard Area.

Map No. H & I 485472A Panel 13 is hereby corrected to reflect that the above mentioned lot is not within the Special Flood Hazard Area identified on September 10, 1976. This lot is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 12, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38920 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480287B Panel 40, published on October 23, 1979, in 44 FR 61022, indicates that a 85.35 acre tract of land out of the William Jones Survey, Abstract No. 489, Harris County, Texas, recorded as Document Number 1238328 in Volume 2734, Pages 195 and 196, in the Office of the Clerk, Harris County, Texas, is within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 40 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on July 30, 1976. This property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38921 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480287B Panel 52, published on October 23, 1979, in 44 FR 61022, indicates that Lots 7 through 9 and Reserve C, Block 8; Lots 18 through 34, Block 9; Lots 11 through 21, Block 10; Lots 37 through 103 and 108, Block 11; all of Block 12; Lots 6 through 31, Block 13; Lots 9 through 29, Block 14; and Lots 19 through 23, Block 15, Inwood North, Section Five; and Lots 1 through 7 and 15 through 40, Block 11; Lots 5 through 16, Block 12; and Lots 4 through 11, 18 through 27, and 36 through 51, Block 13; and Reserve C, Woodland Trails West, Section Two, Harris County, Texas, as recorded in Volume 288, Page 146 of Map Records, under File Number G124653; and Volume 250, Page 102, respectively, in the Office of the Clerk, Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 52 is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on July 30, 1976. These properties are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38922 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been

published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480287B Panel 84, published on October 23, 1979, in 44 FR 61022, indicates that Tracts 55, 56, and 57, being an unrecorded re-subdivision of Lots 49 through 52, Block 3, Keegans Glen, Section Two, Harris County, Texas, as recorded in Volume 293, Page 1, in the Office of the Clerk, Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 84 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on July 30, 1976. These tracts are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 14, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–38923 Filed 12–15–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480287B Panel 43, published on October 23, 1979, in 44 FR 61022, indicates that Lots 20 through 29, Block 5; Lots 40 through 47, Block 6; Lots 1 through 4 and 54, Block 8; and Lots 36 through 47 and 67 through 140, Block 11, Greenbriar Colony Townhouses, Harris County, Texas, as recorded in Volume 295, Page 79 of Map Records, in the Office of the Clerk, Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 43 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on July 30, 1976. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegaton of authority to Federal Insurance Administrator)

Issued: December 2, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–38924 Filed 12–15–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for St. Charles County, Missouri; Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included St. Charles County, Missouri. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for St. Charles County, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a

condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 290315 Panel 0125A, published on October 23, 1979, in 44 FR 61024, indicates that two tracts of land in U.S. Survey 2632, located at the corner of Highway P and Koch Road, St. Charles County, Missouri, as recorded in Book 533, Pages 199 and 200, and Book 800, Pages 1775 and 1776, in the Office of the Recorder, St. Charles County, Missouri, are within the Special Flood Hazard Area.

Map No. H & I 290315 Panel 0125A is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on September 15, 1978. This property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38925 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for St. Charles County, Missouri, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included St. Charles County, Missouri. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for St. Charles County, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii) call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 290315 Panel 0250A, published on October 23, 1979, in 44 FR 61024, indicates that Lot 20 of Corrected Plat of Powell Park, Forest Gardens and Howell School Addition, St. Charles County, Missouri, recorded as Document Number 17870 in Book 779, Page 1112, in the Office of the Recorder, St. Charles County, Missouri, is partially within the Special Flood Hazard Area.

Map No. H & I 290315 Panel 0250A is hereby corrected to reflect that the existing structure on the above mentioned property is not within the Special Flood Hazard Area identified on September 15, 1978. This structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38926 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for St. Charles County, Missouri, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included St. Charles County, Missouri. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for St. Charles County, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6570 or toll free line

(800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b).

Map No. H & I 290315 Panel 0250A, published on October 23, 1979, in 44 FR 61024, indicates that Lot 23 of Corrected Plat of Powell Park, Forest Gardens and Howell School Addition, St. Charles County, Missouri, as recorded in Book 518, Page 345, in the Office of the Recorder, St. Charles County, Missouri, is partially within the Special Flood Hazard Area.

Map No. H & I 290315 Panel 0250A is hereby corrected to reflect that the existing structure on the above mentioned property is not within the Special Flood Hazard Area identified on September 15, 1978. This structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–36927 Filed 12–15–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for St. Charles County, Missouri, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included St. Charles County, Missouri. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for St. Charles County, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 290315 Panel 0250A, published on October 23, 1979, in 44 FR 61024, indicates that Lot 21 of Corrected Plat of Powell Park, Forest Gardens and Howell School Addition, St. Charles County, Missouri, as recorded in Book 425, Page 565, in the Office of the Recorder, St. Charles County, Missouri, is partially within the Special Flood Hazard Area.

Map No. H & I 290315 Panel 0250A is hereby corrected to reflect that the existing structure on the above mentioned property is not within the Special Flood Hazard Area identified on September 15, 1978. This structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–36928 Filed 12–16–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for the City of Lake Jackson, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Lake Jackson, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Lake Jackson, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender

now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638—6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H and I 48544C Panel 02 published on October 23, 1979, in 44 FR 61021, indicates that a 339.121 acre tract of land which encompasses proposed Timbercreek Subdivision, Sections 1 and 2, and a 4.355 acre tract of land, both located in Lake Jackson, Texas, as recorded in Volume 1079, Pages 79 through 94, bearing File Number 1774; and Volume 1236, Pages 458 through 461, bearing File Number 3109, respectively, in the Office of the Clerk of the County Court, Brazoria County, Texas, is within the Special Flood Hazard Area.

Map No. H and I 485484C, Panel 02 is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on June 10, 1977. These properties are in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38946 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480487B Panel 43, published on October 23, 1979, in 44 FR 61022, indicates that Unrestricted Reserve B, Greenbriar North, Section One, Houston, Texas, as recorded in Volume 225, Page 72 of Map Records, in the Office of the Clerk, Harris County, Texas, is within the Special Flood Hazard Area.

Map No. H & I 480487B Panel 43 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on July 30, 1976. This property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4218; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38947 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained throught the insurance agent or broker who sold the policy, or from the

National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480287B Panel 78, published on October 23, 1979, in 44 FR 61022, indicates that Lots 7 through 38, Block 3, Brays Village East, Section 2, Harris County, Texas, recorded as Document Number F420217 in Volume 262, Page 8 of Map Records, in the Office of the Clerk, Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 78 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on July 30, 1976. This property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38948 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b).

Map No. H & I 480287B Panel 52, published on October 23, 1979, in 44 F.R. 61022, indicates that Lots 17 through 21, Block 4; Lots 17 through 26, Block 5; Lots 17 through 25, Block 6; Lots 69 through 78, Block 7; and all of Block 8, Inwood North, Section Six, Harris County, Texas, as recorded in Volume 295, Page 70 of Map Records, in the Office of the Clerk, Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 52 is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on July 30, 1976. These properties are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38949 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the Unincorporated Area of Arlington County, Virginia Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Arlington County, Virginia. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Arlington County, Virginia, that certain property is within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is within the Special Flood Hazard Area, mandates the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, Program, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or Toll Free Line (800) 424–8872.

The Map amendments listed below are in accordance with 70.7(b):

Map No. H & I 515520A, Panel No. 08, published on October 23, 1979, in 44 FR 61012, indicates that Windgate of Arlington, Village 1, Unincorporated Area of Arlington County, Virginia, as recorded in Deed Book 2003, Page 1295 through 1300 and Page 1315 through 1320, in the Office of the Clerk of the Circuit Court of Arlington County, Virginia, is not located within the Special Flood Hazard Area.

Map No. H & I 515520A, Panel No. 08, is hereby corrected to reflect that Buildings Nos. 34, 35, 37 through 39, Building No. 41 and Buildings Nos. 43 through 48, located on the above-mentioned property are within the Special Flood Hazard Area identified on December 31, 1976. The structures are in Zone A.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38950 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the Unincorporated Area of Marathon County, Wisconsin Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Marathon County, Wisconsin. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Marathon County, Wisconsin, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with 70.7(b):

Map No. 550245, Panel No. 0225A,, published on October 23, 1979, in 44 FR 61020, indicates that a parcel of land, being located in part of Government Lot 3, Section 12, Township 29 North, Range 7 East, Unincorporated Area of Marathon County, Wisconsin, as recorded in Volume No. 4 of Certified Survey Maps, Page 68, in the Office of the Register of Deeds of Marathon County, Wisconsin, is located within the Special Flood Hazard Area.

Map No. 550245, Panel No. 0225A, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on February 1, 1979. The structure is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38951 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

National Flood Insurance Program; Letter of Map Amendment for the Borough of Pompton Lakes, New Jersey

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Borough of Pompton Lakes, New Jersey. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Pompton Lakes, New Jersey, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map Number H & I 345528C, Panels 01, published on October 23, 1979 in 44 FR 61007 indicates that the property located at 58 Mandeville Street, in the Borough of Pompton Lakes, New Jersey, as recorded in the Deed, Book 101, Page 526, in the Office of the Clerk of Passaic County, New Jersey, is within the Special Flood Hazard Area.

Map Number H & I 345528C, Panel 01, is hereby corrected to reflect that the existing structure located on the above property is not within the Special Flood Hazard Area identified on October 15, 1976. The structure is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38867 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of Moss Point, Mississippi; Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Moss Point, Mississippi. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Moss Point, Mississippi, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b).

Map No. H & I 285258B, Panel 05, published on October 23, 1979, in 44 FR 61016 indicates that Mobile Homes 7222-25 and 9066-142, Moss Point, Mississippi, as recorded in the Deed, Deed Book 448, Page 351, are located within the Special Flood Hazard Area.

Map No. H & I 285258B, Panel 05 is hereby corrected to reflect that the existing structures located on the above properties are not within the Special Flood Hazard Area identified on April 9, 1976. The structures are in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 23, 1968 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38998 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of Quincy, Mass., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Quincy, Massachusetts. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Quincy, Massachusetts that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 255219A, Panel 03, published on October 23, 1979, in 44 FR 61006, indicates that Lot 11, as recorded in Plan No. 35537C, being a subdivision of LC 35537B, Lot 5, Quincy, Massachusetts, in the Land Court of Massachusetts, in within the Special Flood Hazard Area.

Map No. H & I 255219A, Panel 03, is hereby corrected to reflect that those portions of the above-mentioned property which are presently at or above 11 feet Mean Sea Level (MSL) are not within the Special Flood Hazard Area identified on July 30, 1976. Those portions of the property which are between 11 feet and 12 feet (MSL) are in Zone B. Those portions which are at or above 12 feet (MSL) are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38999 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the Unincorporated Areas of Jackson County, Miss., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Jackson County, Mississippi. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Jackson County, Mississippi, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 285256, Panel 0150A, published on October 23, 1979, in 44 FR 61016, indicates that mobile homes 9066–134 and 9068–91 as recorded in the Deeds, Deed Book 460, Page 4 and Deed Book 579, Page 362, respectively, in the Office of the Chancery Clerk of Jefferson County, Mississippi, are located within the Special Flood Hazard Area.

Map No. H & I 285256, Panel 0150A, is hereby corrected to reflect that the existing structures located on the above properties are not within the Special Flood Hazard Area identified on April 3, 1978. The structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: November 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-39000 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 45, No. 243
Tuesday, December 16, 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

Farmers Home Administration

7 CFR Part 1955

Disposal of Acquired Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations regarding Disposal of Acquired Property. This revision is necessary because the Housing and Community Development Amendments of 1979, Public Law 96–153 and the Housing and Community Development Amendments of 1980, Public Law 96–399 amended Section 510(e) of the Housing Act of 1949, 42 U.S.C. § 1480. The intended effect of this action is to require that acquired residential property must meet the Agency's standard of decent, safe, and sanitary housing, including meeting the Agency's Thermal Performance Standards, prior to being sold, or the purchaser is obligated as a condition of the sale to meet such standards with respect to the property before such property is occupied; or the purchaser is precluded as a condition of the sale from using the property for residential purposes.

DATES: Written comments must be received on or before February 17, 1981.

ADDRESSES: Submit an original and copy of all written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, United States Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above.

FOR FURTHER INFORMATION CONTACT: Ron Tharrington, Single Family Housing Program Specialist, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250, Telephone (202) 447–3766. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Mr. Joseph H. Linsley, Chief, Directives Management Branch, USDA-FmHA, 14th and Independence Avenue, S.W., Room 6346–S, Washington, D.C. 20250, Telephone (202) 447–4057.

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. The FmHA programs and property which are affected by this instruction are subject to state and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H.

(CFDA No. 10.410 Low to Moderate Income Housing Loans and CFDA No. 10.417 Very Low Income Housing Repair Loans and Grants)

The Farmers Home Administration proposes to amend its regulations under Chapter XVIII, Subchapter H, Title 7 in the Code of Federal Regulations, Part 1955, Property Management by revising Subpart C, Disposal of Acquired Property.

The proposal incorporates the following revisions:

1. In § 1955.103(g), the definition of unsuitable property is revised to include property poorly located.

2. § 1955.117(b) is revised to provide that property sold to an eligible applicant will meet Minimum Property Standards (MPS) for existing construction.

3. § 1955.117(c) is revised to provide that unsuitable property which can feasibly be improved to meet the definition of decent, safe, and sanitary housing will be repaired prior to the property being offered for sale unless a prospective purchaser has indicated an interest in buying the property "as is" or the County Supervisor documents that the property would likely be vandalized prior to its sale.

4. § 1955.117(c)(1) is added to provide the Agency's definition of decent, safe and sanitary housing.

5. § 1955.117(c)(2) is added to provide that if the residential structure does not meet the requirement of Decent, Safe and Sanitary Housing, the Notice of Sale, Listing Agreement and Agreement of Sale must each contain a restrictive covenant obligating the purchaser as a condition of the sale to meet such standards before the property is occupied; or the purchaser is precluded as a condition of the sale from using the property for residential purposes.

Therefore, as proposed, Part 1955 Subpart C is amended as follows:

1. The authority citation for Part 1955 reads as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 8950.

2. § 1955.103 as proposed paragaph (g) is revised to read as follows:

§ 1955.103 Definitions.

* * * * *

(g) *Unsuitable property.* Property acquired pursuant to the Housing Act that is unfit for a borrower to carry out the objectives of an FmHA loan program; e.g., a dilapidated dwelling wherein it would not be feasible to repair the unit to meet decent, safe and sanitary standards, or the property is so poorly located that it will not serve as an adequate residential unit.

3. In § 1955.117, as proposed the introductory paragraph of paragraph (b) and paragraph (c) are revised to read as follows:

§ 1955.117 Sale of real estate that secured Rural Housing (RH) loans.

* * * * *

(b) *Sale of suitable property.* Property sold to an eligible applicant will meet the Department of Housing and Urban Development Minimum Property Standards HUD-MPS for existing construction as adopted and modified by FmHA. Any repairs or improvements needed to meet HUD-MPS and to make the property saleable will be made prior to the property being offered for sale unless an eligible applicant has indicated an interest in buying the property or the County Supervisor or District Director documents that the property would likely be damaged by vandalism prior to its being sold. In such cases, a subsequent loan for improvement may be processed to eligible applicants simultaneously with

the credit sale. If a suitable property not yet repaired to comply with HUD-MPS for existing construction and also not meeting the definition of "Decent, Safe, and Sanitary Housing," as outlined in paragraph (c)(1) of this Section, is offered for sale, the provisions of paragraph (c)(2)(i) of this Section will apply. Suitable property will be offered for sale to eligible and ineligible applicant as follows:

* * * * *

(c) *Sale of unsuitable property.* Unsuitable property which can feasibly be improved to meet the definition of decent, safe, and sanitary housing in § 1955.117(c)(1) will be repaired prior to the property being offered for sale unless a prospective purchaser has indicated an interest in buying the property "as is" or the County Supervisor or District Director documents that the property would likely be vandalized prior to its sale. If the property is not repaired to meet decent, safe and sanitary standards, the requirements outlined in subparagraph (c)(2) (ii) and (iii) must be met. If the property cannot be feasibly improved to meet the definition of decent, safe, and sanitary, it will be offered for sale "as is" with a requirement that the provisions outlined in paragraphs (c)(2) (i) and (ii) be met or the structure will be offered for sale as a chattel for salvage to be removed from the site. Units sold as chattel must be sold in accordance with § 1955.121 of this Subpart. If no offer is received, the unit(s) will be demolished and removed from the site and the site then offered for sale. The cost of demolishing and removing the unit(s) from the site will be handled in accordance with Subpart D of Part 1955 of this Chapter.

(1) *Decent, safe, and sanitary housing.* For the purpose of sale of Government acquired Single Family, Multi-Family and Labor Housing structures, the following definition is applicable: Decent, safe, and sanitary housing unit(s) are structures which meet the requirements of HUD–MPS for existing construction or if not meeting the requirements of HUD–MPS—

(i) Are structurally sound and habitable,

(ii) Have a potable water supply,

(iii) Have a functionally adequate safe and operable heating, plumbing, electrical and sewage disposal system, and

(iv) Meet the Thermal Performance Standards as outlined in Exhibit D of Subpart A of Part 1924.

(2) *Requirements for sale.*

(i) If the structure does not meet the requirements of "Decent, Safe and Sanitary Housing," the Notice of Sale, Listing Agreement and Agreement of Sale, must each contain the following clause:

The structure on this property presently does not meet the standards of 'Decent, Safe, and Sanitary Housing' as defined by the Farmers Home Administration. Prior to being used for residential purposes, the structure must be restored or repaired to:

(A) Be structurally sound and habitable,

(B) Have a potable water supply,

(C) Have a functionally adequate, safe, and operable heating, plumbing, electrical and sewage disposal system, and

(D) Meet the Thermal Performance Standards for existing construction in Exhibit D to Subpart A of Part 1924–A of this Chapter.

(ii)(A) The following language must be added to the Quitclaim Deed for properties which do not meet the definition of decent, safe, and sanitary unless a subsequent loan for needed repairs is closed simultaneously with the credit sale.

Pursuant to section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. § 1480(e), the purchaser ("Grantee" herein) of the above-described real property (the "subject property" herein) covenants and agrees with the United States acting by and through Farmers Home Administration (the "Grantor" herein) that the dwelling unit(s) located on the subject property as of the date of this Quitclaim Deed shall not be occupied or used for residential purposes until such time as such unit(s) are structurally sound and habitable, has a potable water supply, has a functionally adequate, safe and operable heating, plumbing, electrical and sewage disposal system and meet the Thermal Performance Standards as outlined in Exhibit D of 7 CFR Part 1924 Subpart A. This covenant shall be binding on Grantee and Grantee's heirs, assigns and successors and shall be construed as both a covenant running with the subject property and as an equitable servitude. This covenant shall be enforceably by the United States in any court of competent jurisdiction.

At such time as the existing dwelling unit(s) on the subject property complies with the aforementioned standards of the Farmers Home Administration or such unit(s) shall have been completely razed, upon application to Farmers Home Administration in accordance with its regulations, the subject property may be released from the effect of this covenant and this covenant shall thereafter be of no further force or effect.

(B) In addition, Form FmHA 465–10 should be amended to contain the following language when the residential unit(s) being sold does not meet decent, safe and sanitary standards:

"Note this property contains a dwelling unit or units which FmHA has deemed to be inadequate for residential occupancy. The Quitclaim Deed by which this property will be conveyed to the purchaser will contain a covenant binding the purchasers and the property which will restrict the residential unit(s) on the property from being used for residential occupancy until such time as the dwelling unit(s) (is) are structurally sound and habitable, has a potable water supply, has a functionally adequate, safe, and operable heating, plumbing, electrical and sewage disposal system, and meet the Thermal Performance Standards as outlined in Exhibit D 7 CFR Part 1924, Subpart A, which are Farmers Home Administration requirements for a residential unit(s) to meet decent, safe, and sanitary standards. This restriction is required by section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. § 1480.

(iii) A State supplement outlining the procedure for releasing the effects of the decent, safe and sanitary covenant will be issued with the consent and approval of your Regional Attorney, Office of the General Counsel.

* * * * *

This document has been reviewed in accordance with FmHA Instruction 1901–G "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190 an Environmental Impact Statement is not required.

Dated: December 5, 1980.

James E. Thornton,

Assistant Administrator, Farmers Home Administration.

[FR Doc. 80-38942 Filed 12-15-80; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 94

Importation of Carcasses, Parts, or Products of Poultry, Game Birds, and Other Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This amendment would provide for the importation into the United States of carcasses, or parts or products of carcasses, of poultry, game birds, and other birds that originate from countries affected with VVND when such carcasses have been thoroughly cooked. This action is taken to specify the time and temperatures necessary to cook or smoke such carcasses, parts and products of carcasses to inactivate the causative agent of VVND.

DATE: Comments on or before February 17, 1981.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 824, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT: Drs. J. C. Davidson or W. B. Grene, USDA, APHIS, VS, Room 824, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301–436–8379.

Actions of this kind were anticipated under the provisions of the final rule in this matter published in the **Federal Register**, May 2, 1980 (45 FR 29270), and are specifically considered in the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301–436–8695.

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." Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to Sec. 306, 46 Stat. 689, as amended; sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (19 U.S.C. 1306; 21 U.S.C. 111, 134a, 134b, 134c, 134f), the Animal and Plant Health Inspection Service is considering amending Part 94, Title 9, Code of Federal Regulations.

On Friday, May 2, 1980, there was published in the **Federal Register** (45 FR 29270) (VS Docket 79–139) a final rule to provide for the importation into the United States of carcasses, or parts or products of carcasses of poultry, game birds, and other birds that originate in countries affected with VVND if such carcasses or parts thereof are heated sufficiently to be thoroughly cooked, and if, upon inspection at the port of entry, a representative of the United States Department of Agriculture finds that such products have a thoroughly cooked appearance throughout.

The rule defined the term "thoroughly cooked" as a carcass or any part or product thereof which had been heated so that its flesh and juices have lost all red or pink color.

The effect of the final rule published May 2, 1980, was to facilitate the importation of carcasses, or parts or products of carcasses of poultry, game birds, and other birds into the United States by providing another manner by which such carcasses might be imported without risk of the introduction and spread of VVND.

The Department has been advised by the Food Safety and Quality Service (FSQS) that under port inspection procedures it would be difficult to determine that poultry carcasses had been heated to have lost all red or pink color. Also, certain smoked products retain a red or pink color even though thoroughly cooked.

The Department, through consultation and recommendations of scientific advisors, has determined that the virus VVND does not survive when carcasses, parts or products of poultry, game birds and other birds are cooked or smoked under certain conditions. It appears that VVND virus cannot survive at 100° C. (212° F.) for more than one minute. Therefore, if such carcasses, parts or products thereof are cooked by commercial methods which attain a minimum internal temperature of 100° C. (212° F.) for at least one minute, any VVND virus will be killed. It is proposed that a temperature recording instrument (thermocouple) be inserted into the center of the thickest portion of the muscle tissue of the carcass or part thereof, or into the approximate center of any product thereof to determine the internal temperature and that the carcass, part or product thereof be heated to at least 100° C. (212° F.) for at least three minutes. Also, it appears that the virus of VVND does not survive when carcasses, parts or products thereof are commercially smoked, if they are subjected to a minimum ambient temperature of 72° C. (161° F.) for a period of at least seven hours.

Therefore, based on the above information, the Department proposes to amend the regulations in 9 CFR Part 94. Section 94.6(b)(5) would be deleted as being unnecessary, since the proposed amendment of section 94.6(d)(4) would eliminate any reference to "thoroughly cooked".

Section 94.6(d)(4) would be amended to provide that carcasses, or parts of products of carcasses, of poultry, game birds, and other birds may be imported when accompanied by an official inspection certificate signed by a salaried veterinary officer of the national government of the country of origin who is authorized to issue inspection certificates for poultry products exported to the United States. This certificate would identify the product and state that the product has been cooked or smoked by a commercial method to the specified temperature for the specified time as provided in the regulations. This information is necessary to provide the Department with the assurance that the product has been cooked or smoked in the proper manner. Section 94.6(d)(4) would be further amended to specify the times and temperatures.

The products would also be subject to inspection by a representative of the United States Department of Agriculture at the port of entry.

Accordingly, Part 94, Title 9, Code of Federal Regulations, would be amended in the following respects:

In § 94.6, paragraph (b)(5) would be deleted and paragraph (d)(4) would be amended to read:

§ 94.6 Carcasses of poultry, game birds, and other birds, parts or products thereof, and eggs other than hatching eggs; restrictions, exceptions.

* * * * *

(d) * * *

(4) Carcasses, or parts or products or carcasses, of poultry, game birds, and other birds may be imported when accompanied by the foreign meat inspection certificate signed by an official authorized by the national foreign government to issue inspection certificates for poultry products exported to the United States, and stating that the product is cooked or smoked, by a commercial method to the required temperature for the specified period of time as follows:

(i) Carcasses, parts of product of carcasses shall be cooked by a commercial method which attains a minimum internal temperature of 100° C. (212° F.) for at least one minute. The temperature shall be determined by insertion of a temperature recording instrument (thermocouple) into the approximate center of the thickest portion of the muscle tissue of the carcass, part or product thereof or into the approximate center of any product thereof; or

(ii) Carcasses, parts or products of carcasses shall be commercially smoked at a minimum ambient temperature of 72° C. (161° F.) for a period of at least 7 hours.

Such products shall also be subject to inspection by a representative of the United States Department of Agriculture at the port of entry.

* * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 823, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 10 day of December 1980.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-38833 Filed 12-15-80; 8:45 am]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[EDR-320A; Amendment to Part 221, Docket 30539, Dated: December 11, 1980]

Tariffs; Termination of Proposed Amendment About Overcharges

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking.

SUMMARY: The CAB is terminating its rulemaking that proposed solutions to problems arising from airlines charging fares that have been proposed but not yet made effective. Events over the last 3 years have made this rulemaking unnecessary. It was originally suggested by the City Attorney of Los Angeles.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking EDR-320 (42 FR 11843, March 1, 1977), the Board proposed either to prohibit an airline from collecting a higher fare base on a proposed fare, or to make the airline take down each passenger's address so that any extra charge can be returned if the proposed fare is subsequently suspended by the Board. This proposal was intended to solve the problem that resulted from incidents where airlines ticketed passengers at prices not contained within lawfully effective tariffs, although the price changes had been filed as proposed tariffs. A list of those commenting on the proposal is attached as Appendix A.

Since EDR-320 was issued, Congress has passed the Airline Deregulation Act of 1978 (Pub. L. 95-504) to deregulate domestic passenger transportation. It has also passed the International Air Transportation Competition Act (Pub. L. 96-192) to encourage competition in foreign air transportation. Under this authority and new policy direction, the Board has moved to substantially liberalize its tariff procedures. For example, special tariff permissions, which allow airlines quickly to change fares and to put them into effect, are now routine. There thus no longer need be a lengthy wait before an airline puts proposed fare changes into effect. Also, within certain statutory and Board-prescribed zones, airlines may raise or lower their fares without Board review. Therefore, there is less chance of Board suspension of proposed airline fare changes. Carriers could also file tariffs that would be currently effective, but would apply to travel after a future date.

These factors have all worked to eliminate the cause of past airline overcharges. For this reason, there is no longer a need for government intervention in this area, and the Board is withdrawing EDR-320. If in the future a problem recurs with airline overcharges, the Board will reexamine possible rules as a solution.

Accordingly, the Board terminates its rulemaking in Docket 30539 and closes the docket.

(Secs. 204, 403, Pub. L. 85.726, as amended, 72 Stat. 743, 758; 49 U.S.C. 1324, 1373)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Appendix A.—List of Commenters or Reply Commenters

Admiral Travel
Allegheny Airlines (USAir)
American Airlines
American Automobile Association
American Society of Travel Agents
Aviation Consumer Action Project
Braniff Airways
British Airways
Timothy J. Bouton
Cavalcade Tours, Inc.
City Attorney, Los Angeles, California
Conference and Meeting Assistance Corporation
Continental Air Lines
Delta Air Lines
Eastern Air Lines
Frontier Airlines
Natalie K. Harris
Hughes Air Corporation
Lincoln Tour and Travel
National Industrial Traffic League
Northwest Airlines
Office of Consumer Advocate, C.A.B.
Office of Consumer Affairs, H.H.R.
Pan American World Airways
Donald L. Pevsner
Alan E. Seyfer
B. M. Shaffer
Southern Airways
Maj. Gen. Richard Stendach, Ret.
James S. Tracy
Trans World Airlines
United Air Lines
Joyce Van Meer
Western Air Lines
John F. Williams

[FR Doc. 80-39032 Filed 12-15-80; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 812 3036]

Citicorp Financial, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Towson, Md. financial organization to cease issuing any unsolicited credit card, except in renewal of or in substitution for an accepted credit card. Respondent is additionally required to maintain prescribed records for specified periods.

DATE: Comments must be received on or before February 13, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/BCP/C, Frederick D. Clements, Washington, D.C. 20580. (202) 254-6135.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

Agreement Containing Consent Order To Cease and Desist

In the Matter of Citicorp Financial, Inc., a corporation.

The agreement herein, by and between Citicorp Financial, Inc., a corporation, hereinafter sometimes referred to as respondent, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In

accordance therewith the parties hereby agree that:

1. Respondent Citicorp Financial, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 7720 York Road, Towson, Maryland.

2. The Commission, on April 18, 1973, issued its decision and order in Docket No. C–2383 in the matter of Arlen Realty & Development Corp., a corporation, also doing business as Korvettes, a division, and NAC Credit Corporation, a corporation, which provides that said order shall apply to "successors and assigns" of said respondents.

3. Citicorp Financial, Inc., having succeeded to a substantial part of the assets of NAC Credit Corporation and to the management and operation of the NAC Charge Plan, formerly managed and operated by NAC Credit Corporation, is a successor of NAC Credit Corporation and the order contemplated by this agreement, and not the Commission's order in Docket No. C–2383, is binding on Citicorp Financial, Inc.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Citicorp Financial, Inc.

5. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

6. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by Citicorp Financial, Inc., that it has violated the law as alleged in the Arlen Realty & Development Corp., *et al.*, complaint (Docket No. C–2383).

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of its Rules, the Commission may without further notice to respondent, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the small force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it might have to any other manner of service. No agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

9. Respondent has read the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

It is ordered that respondent Citicorp Financial, Inc., a corporation, its successors and assigns, and its officers, agent, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the issuance of credit cards, as "credit card" is defined in Regulation Z (12 CFR 226) of the Truth in Lending Act, as amended, (Pub. L. 90–321), 15 U.S.C. 1601, *et seq.*), shall forthwith cease and desist from:

Issuing any credit card, other than a credit card issued in renewal of or in substitution for an accepted credit card, as "accepted credit card" is defined in § 226.13(a) of Regulation Z, unless:

1. In response to the recipient's separate, signed, affirmative and specific written request or written application therefor. *Or*

2. In response to the recipient's specific oral request obtained pursuant to oral solicitation, provided that the following procedures are employed:

(a) The person making the oral solicitation must state the following, or words of similar meaning and import, at the very outset of the conversation with the person being solicited: "The purpose of this telephone call [or conversation] is to find out if you would like to have a NAC [or other specific name, as applicable] credit card." and

(b) A detailed log of all oral solicitations is maintained for a period of at least two years, such log to include:

(1) The name of the individual who made the oral solicitation;

(2) The name of the person with whom the solicitor spoke;

(3) The time and date of the solicitation; and

(4) Whether or not a credit card was requested.

A. *It Is Further Ordered* that for a period of five (5) years from the date of entry of this order respondent shall:

1. Maintain records of all oral and written complaints it receives concerning its solicitation programs; provide those records to the staff of the Federal Trade Commission upon request; reflect in those records, in the case of each such oral complaint, the name and address of the complainant together with a brief identification of the nature of the complaint, and to include in those records, in the case of each such written complaint, a copy of the complaint.

2. Maintain a copy of each contract between it and any other party pursuant to which that party will solicit new holders for any credit card issued by Citicorp Financial, Inc., and to provide those copies to the staff of the Federal Trade Commission upon request.

3. Take steps to insure that a full consumer credit report on any applicant solicited during any new account solicitation program is not obtained by Citicorp Financial, Inc. (or by any person soliciting new accounts on behalf of Citicorp Financial, Inc.) during the period of time commencing on the date on which such applicant is first contacted, orally or in writing, by Citicorp Financial, Inc. (or by any person soliciting new accounts on behalf of Citicorp Financial, Inc.) and ending on the earlier of (i) the date on which the applicant submits a written request for the credit card or (ii) the date on which the applicant first uses the credit card.

B. *It Is Further Ordered* that repondent shall forthwith deliver a copy of this order to cease and desist to all persons engaged in the solicitation or issuance of respondent's credit cards, whether or not employed by respondent, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

C. *It Is Further Ordered* that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution,

assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

D. *It Is Further Ordered* that the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission

(Attachment A)

Docket No. C-2383

Complaint

In the Matter of Arlen Realty & Development Corp., a corporation, also doing business as Korvettes, a division, and NAC Credit Corporation, a corporation.

Pursuant to the provisions of the Truth in Lending Act, as amended, and the implementing Regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Arlen Realty & Development Corp., a corporation, also doing business as Korvettes, a division, and NAC Credit Corporation, a corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts and implementing Regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

Paragraph One: Respondent Arlen Realty & Development Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 888 Seveth Avenue, New York, New York. Respondent Arlen Realty & Development Corp. formulates, controls, and directs the policies, acts and practices, including those hereinafter set forth, of its devision, Korvettes, and of its wholly owned subsidiary, NAC Credit Corporation.

Paragraph Two: Korvettes is an operating division of respondent Arlen Realty & Development Corp. with its main office and principal place of business located at 450 West 33rd Street, New York, New York. Though this division, said respondent is now, and for some time in the past has been, engaged in the advertising, offering for sale, sale and distribution of general merchandise through over fifty (50) Korvettes retail stores located in numerous states.

Paragraph Three: Respondent NAC Credit Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 200 West Baltimore Street, Baltimore, Maryland. Respondent NAC Credit Corporation, hereinafter sometimes referred to as NAC, is a wholly owned subsidiary of respondent Arlen Realty & Development Corp.

Paragraph Four: In the ordinary course and conduct of its business, as aforesaid, respondent Arlen Realty & Development Corp., doing business as Korvettes, subsequent to October 26, 1970, regularly issued credit cards, as "credit card" is defined in Regulation Z, the implementing Regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

Paragraph Five: In the ordinary course and conduct of its business, as aforesaid, respondent Arlen Realty & Development Corp., doing buisness as Korvettes, in connection with its credit sales, as "credit sale" is defined in Regulation Z, has caused and is causing a substantial number of its customers to execute retail installment sales contracts. Within the text of these retail installment sales contracts is a sentence to the effect that one or more credit cards are requested by the consumer. Typical of such language, but not all inclusive thereof, are the following:

1. "I hereby request a Korvettes Charge Plate."

2. "I request a Charge Plate from Korvettes or any of its parent or subsidiary companies."

"I hereby request a charge plate from Korvettes, Arlen Realty & Development Corp. or any of its affiliated or subsidiary companies."

Pursuant to the above-quoted language and the consumer's signature on the retail installment sales contract, said respondent issued a substantial number of credit cards to customers who were unaware of the existence of such language and who had not intended to request or apply for such credit cards.

Paragraph Six: By and through the use of said practice described in *Paragraph Five* hereof, said respondent issued Korvettes' credit cards without responding to a "request or application" for such credit cards, as required by the Truth in Lending Act. Further, such cards were not issued in renewal of or in substitution for an accepted credit card, as "accepted credit card" is defined in Regulation Z, in violation of Section 132 of the Truth in Lending Act and Section 226.13(b) of Regulation Z.

I11*Paragraph Seven:* In the ordinary course and conduct of their business, respondents Arlen Realty & Development Corp. and NAC Credit Corporation are now, and for some time in the past have been, engaged in the advertising for, solicitation and acceptance of open end credit accounts with consumers, doing business as "NAC Charge Plan".

Paragraph Eight: In the ordinary course and conduct of their business, as aforesaid, subsequent to October 26, 1970, respondents Arlen Realty & Development Corp. and NAC Credit Corporation regularly issued credit cards, as "credit card" is defined in Regulation Z, the implementing Regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

Paragraph Nine: In the ordinary course and conduct of their business, said respondents contract with retailers of goods and services to accept their "NAC Charge Plate" credit card in lieu of cash. Respondents supply special forms, sometimes referred to as "sales drafts", to be used when a cardholder charges a purchase against his NAC charge account.

On the sales draft, in addition to the information applicable to the particular sale, is language of which the following is typical and illustrative, but not all inclusive:

"I hereby request an NAC Charge Card."

When a consumer makes a purchase, the sales draft is completed by the retailer, identifying the merchandise purchased, and the consumer's credit card imprint is embossed thereon. The consumer then signs the sales draft for the purpose of authorizing the credit sale.

Paragraph Ten: In a substantial number of instances, a consumer uses a major credit card other than an NAC Charge Plate to purchase goods or services from various retail outlets, and the sales draft supplied by NAC is used by the retailer in the same manner as described in *Paragraph Nine* hereof.

Pursuant to the language appearing on the sales draft and such consumer's signature thereon, said respondents issued a substantial number of NAC credit cards to consumers who were unaware of the existence of such language and who had not intended to request or apply for such NAC Charge Plate.

Paragraph Eleven: By and through the use of said practice described in

Paragraphs Nine and *Ten* hereof, respondents issued NAC credit cards without responding to a "request or application" for such credit cards, as required by the Truth in Lending Act. Further, such cards were not issued in renewal of or in substitution for an accepted credit card, as "accepted credit card" is defined in Regulation Z, in violation of Section 132 of the Truth in Lending Act and Section 226.13(b) of Regulation Z. I11*Paragraph Twelve:* Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with that Act and Section 226.13 of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents have violated the Federal Trade Commission Act. I11*Wherefore, the premises considered,* the Federal Trade Commission on this 18th day of April, 1973 A.D. issues its complaint against said respondents.

By the Commission.

Charles A. Tobin,

Secretary.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Citicorp Financial, Inc., of Towson, Maryland.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

On April 18, 1973, the Commission issued its order in Docket No. C–2383 against Arlen Realty & Development Corp. (Arlen), also doing business as Korvettes, and NAC Credit Corporation (NAC). NAC is a wholly-owned subsidiary of Arlen and it issued credit cards. Respondents were charged with violating the Truth in Lending Act by issuing unsolicited credit cards.

The above order applies to "successors and assigns" of the said respondents. In August, 1980, Citicorp Financial, Inc., succeeded to a substantial part of the assets of NAC and to the management and operation of the NAC Charge Plan, formerly managed and operated by NAC. Thus, the proposed order is against Citicorp Financial, Inc., as a successor of NAC Credit Corporation.

The proposed order contains all of the provisions contained in the order in Docket C–2383. Additionally, certain other provisions have been added to insure that the public is adequately protected in all matters relating to the solicitation of credit cards.

The order prohibits respondent from issuing any credit card, other than one issued in renewal of or in substitution for an accepted credit card, unless the recipient specifically requests the card, either orally or in writing. The order sets forth certain safeguards which must be employed whenever an oral solicitation is involved. To that end, the person making the oral solicitation must, at the very outset of the conversation, inform the person being solicited of the purpose of the solicitation. In addition, a detailed log of all oral solicitations must be maintained for a period of at least two years. Furthermore, respondent is required to maintain for a period of five years, (1) records of all oral and written complaints it receives concerning its solicitation programs, and (2) copies of each contract between it and any other party pursuant to which that party will solicit new credit card holders. Copies of the complaints and contracts shall be provided to the staff of the Federal Trade Commission upon request. Copies of the order must be furnished to all persons engaged in the solicitation or issuance of respondent's credit cards, whether or not employed by respondent.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 80–39036 Filed 12–15–80; 8:45 am]

BILLING CODE 6750–01–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1508 and 1509

Proposed Amendments to Requirements for Full-Size and Non-Full-Size Baby Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendments to regulations.

SUMMARY: The Commission is proposing amendments to the requirements for full-size and non-full-size baby cribs. The amendments would address neck and head entrapment hazards associated with certain design configurations on crib panels. The amendments would prohibit the hazardous configurations by adding to the crib requirements a performance test that simulates the neck and head entrapment hazard pattern.

DATES: Comments on the proposed amendments are due by February 17, 1981. The Commission has not proposed a firm effective date; rather, the amendments are proposed to become effective within the period of two to eight months after their publication in final form in the **Federal Register.**

ADDRESSES: Comments should be mailed (preferably with five copies) to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received copies may be seen in the Office of the Secretary, Third Floor, 1111 18th Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Elaine H. Besson, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301)492–6453.

SUPPLEMENTARY INFORMATION:

I. Introduction

In late 1977 the Commission learned of a child whose neck and head had become entrapped in the cutout headboard design of a crib. As was the case with later victims (discussed in *Risk of injury,* section IIB below), the child had strangled to death in the cutout. The Commission staff immediately opened an investigation into the hazard.

The manufacturer of the crib notified retailers of the hazard and made available a modification kit which contained a shaped piece of board to close off the opening. In February 1978 the CPSC and manufacturer issued a joint press release that alerted consumers and announced a number of corrective actions. At the urging of the Commission, the manufacturer undertook additional actions, including new letters to dealers and the distribution of warning posters to the public.

A different crib model, produced by the same manufacturer, was later identified as being involved in other strangulations due to neck and head entrapment. That model also became the subject of a staff investigation and subsequent voluntary corrective actions by the manufacturers. Posters were distributed to pediatricians' offices to warn owners of the cribs. In addition, a consent agreement later required the manufacturer to place paid warning messages in magazines and to send letters to parents of small children who might be sleeping in the hazardous cribs.

Based on the information obtained in connection with the investigations, the

Commission directed its staff to prepare proposed amendments to the regulations for baby cribs. These amendments would address the entrapment hazard presented by the panels on certain cribs.

II. Discussion

The documents that support the proposed amendments are listed at the end of this **Federal Register** notice. All citations in the following discussion refer to those documents by number, and copies of them are available from the Office of the Secretary (address provided above).

A. *Existing crib regulations.*

The Commission currently enforces two baby crib regulations. The safety requirements in each regulation are comparable, but one applies to full-size cribs and the other applies to non-full-size cribs.

Full-size cribs (16 CFR Part 1508) have interior dimensions of 133 cm. by 71 cm., a standardized size. Non-full-size cribs (16 CFR Part 1509) are most other rigid-sided cribs, including portable, oversized, undersized, and specialty cribs.[1] Both categories of cribs must comply with a test procedure for the spacing of crib slats and spindles. This addresses the risk that an infant will strangle when its body, but not its head, slips through the slats.

If a crib mattress is too small, an infant could suffocate by becoming entrapped between the crib frame and the mattress, with its face wedged against the mattress. Therefore, labels specifying the correct mattress size are required for full-size cribs, which are generally not sold with a mattress as part of their original set. Since most non-full-size cribs are sold with a mattress, they must meet mattress size requirements that specify the allowable space between the unit and the mattress. In addition, permanent labeling requirements for non-full-size cribs assure that consumers have adequate information about the correct size for a replacement mattress.

Both crib regulations also have requirements for: Minimum effective rail height; locking or latching devices for drop or folding sides; construction and finishing, including provisions to eliminate "toe-holds" that might help babies climb out; assembly instructions; cautionary labeling; manufacturer identification; and recordkeeping.

Neither of the crib regulations addresses the neck and head entrapment hazard that the staff has investigated.

[1] Cribs with mesh, net, or screen sides, car beds, baby baskets, and bassinets are not covered by either regulation.

B. *Risk of injury.*

Including the strangulations discussed in *Introduction,* the Commission has learned of fourteen incidents [2] in which cutout designs in crib headboards or footboards were involved (3). Eight children under two years of age died, while the other six escaped death and permanent injury ("near misses"). The Commission staff analyzed all of these case histories to attempt to establish common aspects of the incident sequences and to determine the critical physical characteristics of the children at risk (2).

In contrast to the risk addressed by the existing slat spacing requirements, the fourteen incidents involved necks and heads that became entrapped while the children were completely inside the cribs. The staff analysis concludes that the victims were able to stand at or climb up to the top of the end panel (headboard or footboard), and then become entrapped in a cutout opening (2).

According to the analysis, three factors are necessary for this type of neck/head entrapment to occur: (a) The neck is smaller (or compresses to a dimension smaller) than the entrance to the opening, (b) the head is larger than the minimum dimensions of the open area of the cutout, and (c) the child's feet, because of panic, short stature, or loss of footing, fail to provide effective support.

It is possible and even likely that "near-miss" incidents have occurred without being reported. Like the six reported "near-misses", these would be situations in which a parent or other adult found a child entrapped, but was able to extricate the child before any injury resulted. There may also have been instances in which children were temporarily entrapped, but were then able to extricate themselves.

The Commission has preliminarily determined that the neck and head entrapment hazard presents an unreasonable risk of injury to children (see *Conclusion* below). The Commission staff is continuing to evaluate any new injury information that becomes available because it might indicate that some refinement in the proposed performance test is appropriate. In its effort to collect new injury information, the Commission has contacted medical examiners and health care professionals, as well as reviewed available medical literature.

C. *Proposed test requirement.*

[2] In one of these fourteen incidents, involving a death, the crib had been damaged and then modified by the parent. However, the entrapment and strangulation followed the same pattern as in the other thirteen incidents (3).

The Commission has preliminarily determined that the identified risk of injury can be substantially reduced by amendments that prohibit from crib end and side panels any cutout (partially-bounded opening) that can entrap the necks and heads of the children using the cribs.[3] The Commission intends to add identical amendments to the full-size and non-full-size crib regulations.

As proposed below, the amendments prohibit cutouts that fail to comply with a performance test. By using a "head-form probe," the test simulates the way that a child's head and neck can become entrapped. When the probe is placed in the cutout, it must be free to swing through a vertical arc without interference from any portion of the crib end or side panels.

The proposed amendments describe the probe and the way it is positioned at all times during the test procedure. The probe is placed with its "neck" resting within the cutout area. The head of the probe is pivoted upward and backward. The cutout fails the test of the head portion of the probe does not freely attain a full upright position. Proposed Figure 3 schematically describes this procedure.

The proposed test procedure is based on the staff's reconstruction of the injury incident scenarios from the investigation reports (2, 5). In each of the cases, the victim was found suspended by the head because the effective opening of the cutout was too small to allow free passage of the head back into the crib. The test procedure is based on the proposition that gravity alone should be sufficient to free an entrapped child.

The development of the proposed head-form probe is fully described in staff documents (2), and proposed Figure 2 shows its dimensions. From the same injury incident investigation reports (35), the staff learned that most of the children were between one and two years of age and they were found with their heads entrapped in cutouts on the upper portions of the headboards. While it was impossible to determine the head sizes from the reports, none of the victims was of unusual height or weight.

The size of the probe is derived from the sizes of heads and necks of children who fall within the age range of one to two years (2). The staff considered anthropometric data from a 1977

[3] A fully-bounded opening could present a different entrapment risk of injury. This potential risk would require a different test procedure than the one for partially-bounded openings. The Commission has no injury data on any risk associated with fully-bounded openings (unless of course they are slats within the existing regulations), and the proposed amendments do not address any such risk.

University of Michigan study (27) and other sources (21–26; 28–30). Since complete data were not available for children younger than 2 years of age, data for children between 2 and 3.5 years of age were used. (This is the youngest age grouping of complete, statistically representative data available.) The staff used head length, head width, and head height dimensions at the 95th percentile level. This level means that 95 percent of the children in that age group have head dimensions less than the size used in the proposed probe. The location of the widest point on the probe (with respect to the vertical plane) was designed as a band starting two inches from the rear of the probe and extending all the way forward. The band is two inches wide to account for the variable location of the widest point on a child's head.

To obtain the appropriate neck dimension for the probe, the staff first used the 5th percentile dimension for children between 2 and 3.5 years of age. The staff then extrapolated this dimension to about one year of age because this was the age of the youngest victim for whom relevant information was available. The staff further reduced this dimension by 25 percent to account for the pliability of the neck, a factor that was not considered in the University of Michigan anthropometric study.

In general, the probe incorporates dimensions for the smallest neck sizes and the largest head sizes. This is a "worst case" approach because a small neck would be most likely to fit into an opening and a large head would be most likely to become entrapped. Using these dimensions in the test probe provides a margin of safety for children who will not combine these two extremes of neck and head sizes.

D. *Economic considerations.*

The cribs already investigated by the Commission are no longer being manufactured and they have been the subject of numerous corrective activities (see *Introduction*). Those cribs were associated with nearly all of the deaths and other incidents discussed in *Risk of injury*, and their cutouts present a severe entrapment hazard to children.

The Commission has estimated that about 65,000 additional cribs shipped by manufacturers, representing eleven different models, may fail to comply with the proposed test procedure (6). The location and retrofitting of these cribs could cost more than $2 million (6). However, none of these cribs contains cutouts that are as "deep" or otherwise appear as hazardous as those contained in the cribs described in *Introduction*, and none has been associated with any death or injury incidents. As a result, the Commission has preliminarily concluded that the proposed amendments should not apply to these 65,000 cribs that have already been manufactured. The amendments incorporate various margins of safety (see *Proposed test requirement*) and should appropriately be applied only to those cribs manufactured in the future.

The Commission's economics staff has surveyed the crib manufacturers' 1980 catalogs and received additional information directly from the manufacturers (6). Based on these data, the Commission has estimated that only four or fewer models that may fail the proposed test procedure are still being produced in 1980 (6). In addition, manufacturers have indicated that these models are being phased out due to lack of consumer demand and the adverse publicity associated with the entrapment hazard (6). The staff has not yet surveyed manufacturers about the 1981 model cribs, but it will do so soon. Based on preliminary staff observations, the Commission anticipates that none of the 1981 models will fail the proposed test procedure.

Therefore, the Commission has preliminarily found that the economic impact on crib manufacturers of the proposed amendments will be slight. Certain minimal costs will be incurred by a manufacturer who performs compliance tests on prototype models (6). These costs would be limited to fabrication of the head-form probe and time spent on the testing.

Any current model lines that fail the test can be discontinued or redesigned without imposing a significant economic burden on any manufacturer (6). Each year, manufacturers routinely discontinue and redesign cribs in response to consumer demand and in anticipation of that demand (6). Dicontinuation of a model would not result in economic losses as long as the cribs already manufactured could continue to be sold (6). Redesign of a crib model may only involve slight adjustment of the machinery that cuts the headboard and footboard patterns (6). Retooling is not expected to be necessary for such slight changes in the sizes and shapes of any noncomplying cutouts (6). Any redesign costs would therefore be minimal.

In any case, only the four or fewer 1980 models of cribs and probably fewer 1981 models would need to be discontinued or redesigned. The Commission is especially seeking comments from crib manufacturers providing information on the impact of the proposed amendments on the 1981 model cribs.

The Commission has issued environmental review procedures (16 CFR Part 1021; 45 FR 69433; October 21, 1980) concerning agency compliance with the National Environmental Policy Act, as amended. These procedures provide that safety regulations for products normally have little or no potential for affecting the human environment and that preparation of environmental documents is generally not required (§ 1021.5(c)(1)). If a particular safety regulation for products may produce environmental effects, the Commission would prepare appropriate environmental documents.

The Commission has reviewed the proposed crib amendments and concludes that they have little or no potential for significantly affecting the human environment. At most, they will require alteration of certain crib designs manufactured in the future. Therefore, the Commission has prepared no environmental documents in considering this proposal.

E. *Effective date.*

Cribs are generally marketed according to an annual design and production cycle (6). New designs are completed by the summer, and they are manufactured beginning in the fall and continuing throughout most of the following calendar year. Retailer orders are also placed beginning in the fall. The orders are then filled by shipments that continue through the following fall, and sometimes until the end of the following calendar year.

The Commission anticipates that, if it decides to issue the crib amendments in final form, they can be issued by the summer of 1981 or earlier. As discussed in *Economic considerations*, they will apply to cribs introduced into interstate commerce after a future effective date.

At this time the Commission does not know whether all 1981 model cribs will pass the proposed test procedure. These 1981 cribs in most cases have already been designed and introduced, and some have already been produced. Therefore, an effective date that is 4–6 months after the issuance date would be appropriate to allow them to be sold until the end of 1981 (see *Economic considerations* and *Conclusion*). This 4–6 month period would also allow sufficient time for a noncomplying model line to be discontinued, or for the machinery that cuts out the crib panels to be adjusted, prior to production of the 1982 models (6).

If the amendments are issued later than the summer of 1981, lead time of more than six months may be necessary because the amendments would be impacting the industry after the 1982 cribs have been designed. However, less

lead time may be appropriate if the staff survey reveals, as anticipated, that the 1981 model cribs largely comply with the proposed amendments.

Therefore, the Commission is not proposing a firm effective date. Instead, based on currently-available information, the Commission is proposing that the effective date will be between two months and eight months after amendments are issued in final form. The final effective date will depend on the information and arguments contained in the public comments, the date of issuance of the amendments, and the degree of conformance with the amendments of the 1981 cribs.

F. *Entanglement hazard.*

The Commission is aware of a hazard pattern associated with cribs that neither the existing crib regulations nor the proposed amendments address. Twenty-one children are known to have strangled by catching such things as clothing, loops of ribbons, necklaces, and pacifier cords on corner posts of cribs. Two of the children strangled after becoming entangled in cords used to suspend toys from corner posts.

The Commission is investigating these various "entanglement" hazard patterns. For now, its efforts with respect to the cribs are focused on the collection of injury information that will enable an informed analysis of the risk presented. Therefore, the Commission is requesting that it be informed of any entanglement incidents about which members of the public have knowledge. Reports of such incidents will supplement information that the Commission now has and expects to obtain from already-initiated contacts with medical examiners and health care professionals.

The Commission will evaluate all available injury information that links any entanglement-type hazard with cribs. If this evaluation justifies additional effort, the Commission would preliminarily consider its regulatory alternatives. Before cribs could be regulated to address an entanglement hazard, the Commission must of course determine that an unreasonable risk exists and that appropriate requirements could address the risk. The Commission cannot now rule out the possibility that such requirements might apply to the same crib end and side panels that are the subject of the amendments proposed below.

The Commission cannot now offer any specific technical guidance that would address the entanglement hazard pattern. Many parts of cribs can provide "catch-points" for clothing, loops of ribbons, necklaces, and pacifier cords. However, the twenty-one known entanglement deaths have been associated with the corner posts of cribs. Therefore, a crib manufacturer who wants to minimize the risk could certainly eliminate corner posts.

III. Conclusion

Based on the discussion above and the information contained in the record of this proceeding, the Commission has preliminarily found that cribs with certain cutouts on their end or side panels present a "mechanical hazard" within the meaning of section 2(s) of the FHSA (15 U.S.C. 1261(s)). In normal use, the design of cribs containing such cutouts presents an unreasonable risk of personal injury to children.

The risk presented to children, strangulation, is the most severe risk possible. It is a risk that children cannot protect themselves against; it is a risk that parents would not expect to be presented by a product in which children spend a great deal of their early lives. The frequency of the risk is more difficult to evaluate. The Commission knows of thirteen injury incidents that the proposed amendments would address (see footnote 2), including seven deaths. However, all of these were associated with the two models that contained the "deepest" cutouts encountered by the Commission. Based on this factor and on the high potential cost of notification and retrofit activities, the Commission has proposed the amendments to apply only to cribs that have not yet been introduced into interstate commerce.

The Commission expects the crib industry's compliance costs to be quite low. Aside from testing costs, the proposed amendments would affect no more than a few crib models, and perhaps no models at all. If any models would require redesign or discontinuation, the costs will still be low. Many models of cribs are redesigned or discontinued yearly, in the normal course of business, and the effective date of the amendments is proposed to conform smoothly with the normal design and production cycle of cribs.

The Commission has carefully considered the severity and, to the extent possible, the frequency of the risk that the amendments would address, as well as the costs that would be associated with the amendments. The Commission's preliminary conclusion is that the risk presented by cribs not yet manufactured is an "unreasonable" one, under the applicable statutory criteria, if the cribs contain cutouts that fail the test procedure.

If such cribs present a mechanical hazard and are intended for use by children, they are "hazardous substances" under section 2(f)(1)(D) of the FHSA and "banned hazardous substances" under section 2(q)(1)(A) of the FHSA (15 U.S.C. 1261 (f)(1)(D) and (q)(1)(A)). Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2 (f)(1)(D), (q)(1)(A), (s); 3(e)(1), 74 Stat. 1304–05, 83 Stat. 187–89; 15 U.S.C. 1261, 1262) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes to amend Parts 1508 and 1509 by adding the identical new §§ 1508.11 and 1509.13 and new Figures 2 and 3 which would appear at the end of each part as follows:

§ 1508.11/1509.13 Requirements for cutouts.

Full-size/Non-full-size baby cribs shall comply with the following test requirement:

(a) Place the neck of the head-form probe shown in Figure 2 into any cutout (partially-bounded opening) located along the upper edges of an end or side panel. The axis of the neck shall be horizontal and at right angles to the plane of the panel at the point of contact. The head portion of the probe shall be on the outer side of the panel. With the neck resting on the panel at any point within the cutout area (for compliance purposes, the Commission may test at all points that could result in a failure), and the front of the probe pointing downwards, draw the head of the probe towards the panel until surface A makes contact with the outer side of the panel (see Figure 3).

(b) Press down on the neck to cause the head to swing upwards through the cutout in the panel. The probe shall not be rotated about the neck axis during this procedure. The arc through which the head is swung shall be in a vertical plane and shall terminate when the neck axis attains an upright positioni or is prevented from attaining an upright position by an obstruction. During the test, contact shall be maintained between surface A and/or surface(s) B of the head-form probe (either alone or in any combination) and the panel.

(c) Before the probe reaches an upright position, no portion of the panel may contact any portion of the probe other than surfaces A or B (or the edges of these surfaces).

(Secs. 2(f)(1)(D), (q)(1)(A), (s); 3(e)(1), 74 Stat. 1304–05, 83 Stat. 187–89; (15 U.S.C. 1261, 1262))

Dated: December 8, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

BILLING CODE 6355-01-M

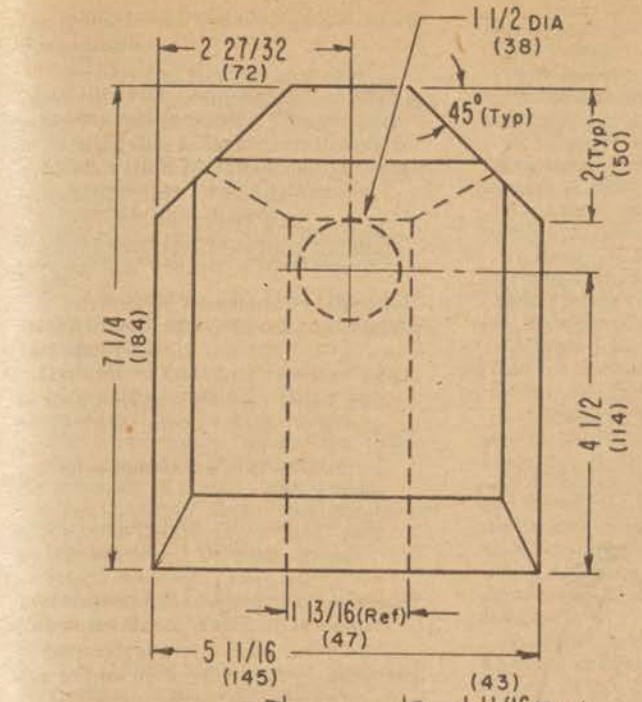
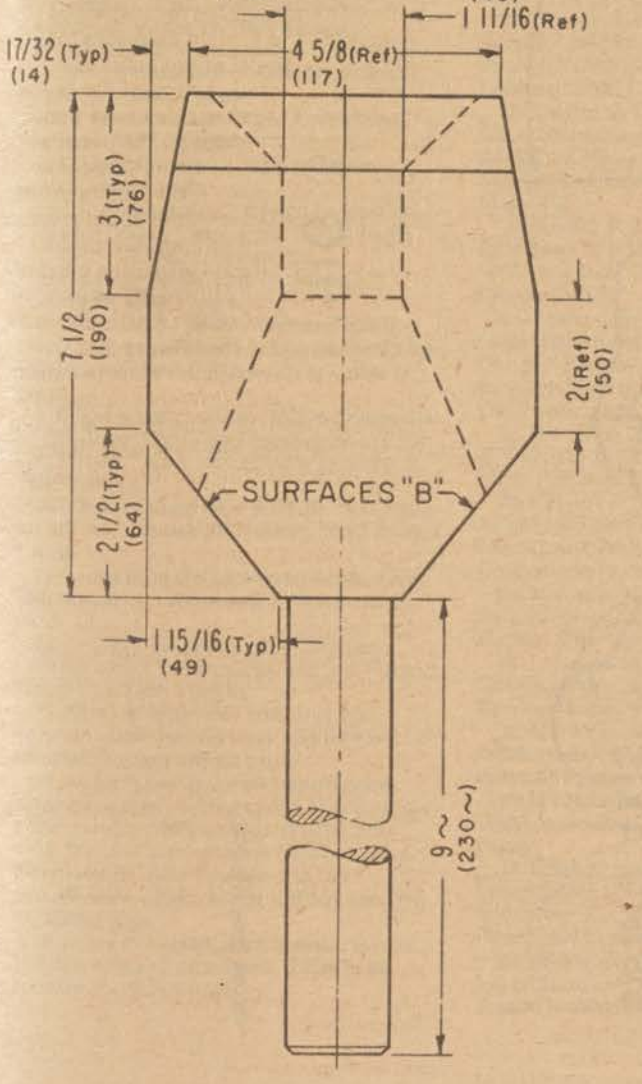
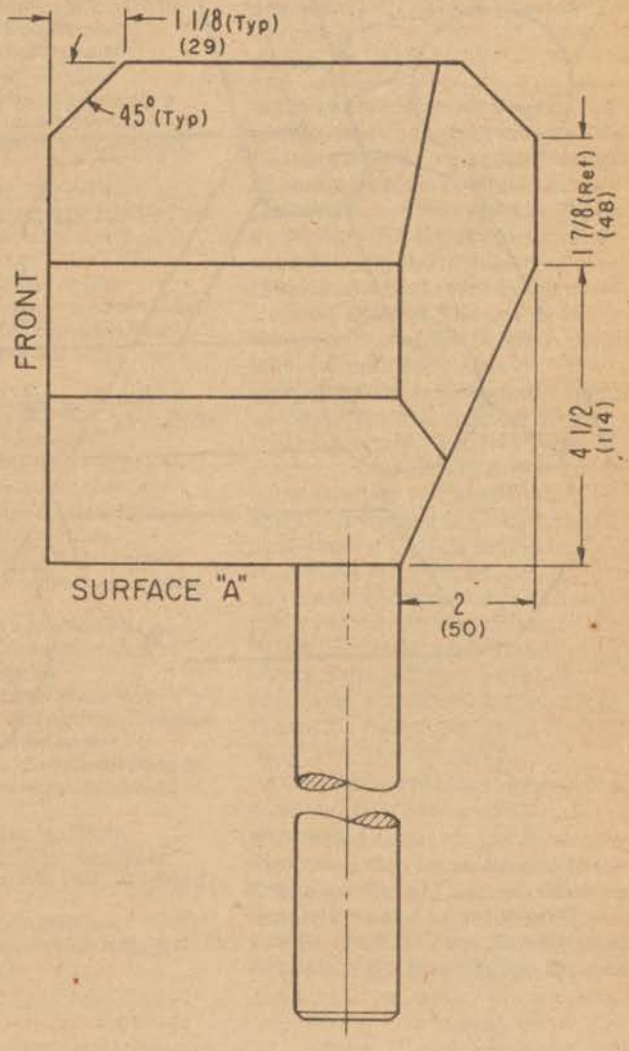


FIG 2—HEADFORM PROBE

DIMENSIONS ARE SHOWN IN INCHES AND WILL BE USED FOR COMPLIANCE PURPOSES. MILLIMETERS, SHOWN IN PARENTHESIS, ARE FOR CONVENIENCE ONLY.





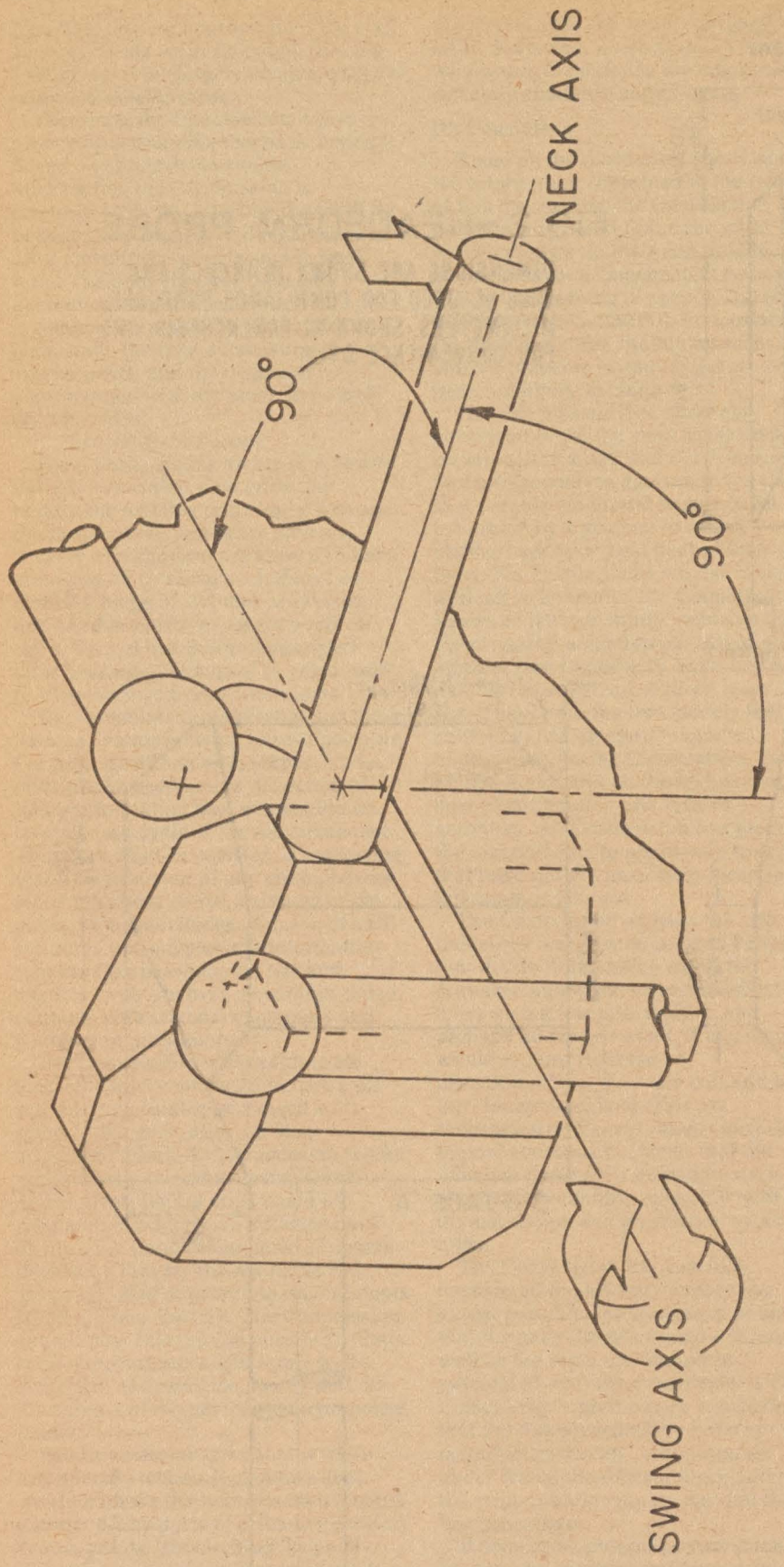


FIG 3

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List of Documents Supporting the Proposed Amendments

1. Staff briefing package, including restricted cover memorandum and briefing paper, November 12, 1980. (The Tabs are listed separately as documents below):

2. Tab A HIEH Memorandum "Data for Crib Amendment," with attachments; December 14, 1979; 14 pages.

HIEH Memorandum "Crib Amendment—Additional Comments," March 26, 1980; 3 pages.

3. Tab B HIEH Memorandum "Update of Data Related to Crib Amendment," October 15, 1980; 2 pages.

HIEH Memorndndum "Analysis of Injury Data Associated with Crib Finials and Cornerposts," June 12, 1980; 2 pages.

HIEH Memorandum "Injury Data Update for Crib Headboard Configurations Amendment," January 22, 1980; 1 page.

4. Tab C Albert F. Esch, "Fatal Entrapment of Infants in Crib Headboards II," with attachment; March 12, 1980; 4 pages.

"Health Sciences Review & Recommendations Regarding the Proposed Crib Amendment," February 14, 1980; 7 pages.

5. Tab D ESEM Memorandum "Proposed Amendments to the Crib Regulations," with attachment; March 13, 1980; 4 pages.

6. Tab E HICP Memorandum "Preliminary Economic Assessment of Crib Amendment," February 1, 1980; 7 pages.

HICP Memorandum, "Crib Amendment," March 10, 1980; 2 pages.

HICP Memorandum, "Crib Amendment," April 2, 1980; 1 page.

HICP Memorandum, "Design-Production Cycle for Cribs," October 24, 1980; 2 pages.

7. Tab F CERM Memorandum, "Amendments to the Crib Regulation," January 15, 1980; 1 page.

8. Tab G Draft **Federal Register** Notice "Proposed Amendments to Requirements for Full-Size and Non-Full-Size Baby Cribs; 21 pages.

9. ESEM Memorandum, "ESEM Comments on Headform Probe for Amendment to Crib Regulations," with attachments; January 29, 1980; 8 pages.

10. Memorandum from Jim Hill, "Response to Crib Amendment FR Notice", April 2, 1980; 1 page.

11. Letter from Gulf & Western Industries, Inc.; March 14, 1980; 4 pages (Restricted in part).

12. Notes of telephone conversations between Jacob Handelsman and Joel Cunard; January 15, 1980; 4 pages.

13. Notes of telephone conversations between Jacob Handelsman and officials of Questor; January 1980; 2 pages.

14. Notes taken by Jacob Handelsman concerning staff investigations of hazardous cribs; January 1980; 7 pages. (Restricted).

15. Notes of conversation between Jacob Handelsman and a Juvenile Product Manufacturers Association official; January 21, 1980; 1 page.

16. Notes of conversation between Jacob Handelsman and an official of Simmons; January 17, 1980; 1 page.

17. Notes of conversation between Jacob Handelsman and an official of Okla Homer Smith; 1 page.

18. Memo of conversation between Jacob Handelsman and an official of Connor Forest Industries; January 11, 1980; 2 pages.

19. Memo of conversation among Jacob Handelsman and two officials of Child Craft; January 18, 1980; 3 pages.

20. Letter from Connor Forest Industries; January 22, 1980; 1 page.

21. Barber, C. R., et al, "Growth of the Skull in Young Children II—Changes in Head Shape," *Journal of Neurology, Neurosurgery and Psychiatry*, 10, pp. 54–56, 1956.

22. Boyd, J. D., "Clinical Appraisal of Infant Head Size," *American Journal of Diseases of Children*, 69, pp. 71–82, 1945.

23. Goldstein, M., "Development of the Head in the Same Individuals," *Human Biology*, 4, pp. 197–219, 1939.

24. Goldstein, M., "Changes in Dimensions and Form of the Face and Head with Age," *American Journal of Physical Anthropology*, 22, No. 1, pp. 37–98, 1939.

25. Goodenough, F. L., *Development Psychology*, Appleton-Century-Crafts Inc., N.Y., 1962.

26. Meredith, H. V., "Changes in the form of the Head and Face during Childhood," *Growth*, 24, pp. 215–265, 1960.

27. Snyder, R. G., et al, "Anthropometry of Infants, Children and Youths to Age 18 for Product Safety Design, Final Report," Contract CPSC C–75–0068, May 1977.

28. Snyder, R. G., et al, "Physical Characterisitics of Children as Related to Death and Injury for Consumer Product Safety, Final Report," Contract FDA 72–70, May 1975.

29. Snyder, R. G., et al, "Source Data of Infant and Child Measurements, Interim Data 1972," Contract FDA 72–70, Interim Report, Reprinted 1975.

30. Young, J. W., "Selected Facial Measurements of Children for Oxygen Mask Design," Federal Aviation Agency, Office of Aviation Medicine, Oklahoma City, Oklahoma, 1966.

31. Brazelton, T. B., *Infants and Mothers Differences In Development*, New York; Delta Book, Dell Publication, 1969; portions.

32. Caplan, F. (ed.), *The First Twelve Months of Life*, The Princeton Center for Infancy and Early Childhood. New York; Grosset and Dunlap, 1973; portions.

33. McGraw, M. B., *The Neruomuscular Maturation of the Human Infant*, New York: Hafner, 1969; portions.

34. L. Joseph Stone and Joseph Church, *Childhood and Adolescence*, New York, Randon House, 1975; page 82.

35. Eleven in-depth investigation reports on incidents involving crib strangulation; various dates; 162 pages. (Restricted in part.)

36. HS Memorandum, "Additional Data on Crib Headboards," September 19, 1980; 12 pages.

37. HIEA Memorandum, "In-depth Investigations of Crib Related Accidents," with attachments; August 29, 1980; 206 pages. (Restricted in part.)

38. HS Memorandum, "Additional Information for Crib Amendment Project," August 8, 1980; 9 pages.

39. OPM Memorandum, "Additional Information on the Crib Amendment Project," with restricted vote sheet; July 3, 1980; 16 pages.

40. Staff briefing package including cover memorandum, June 17, 1980; 28 pages.

41. Various restricted enforcement documents.

42. Tapes of Commission briefings and meetings.

43. Feldman, K. W. and Simms, Roy J., "Strangulation in Childhood: Epidemiology and Clinical Course," *Pediatrics*, Vol. 5, No. 6, June, 1980; pages 1079–1085.

44. "Infant Strangulation," *Pediatrics*, Neonatology Supplement 59, 1977; pages 1043–1045.

[FR Doc. 80-38943 Filed 12-15-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

General Provisions; Proposed Change in Field Organization of the Customs Service

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This notice proposes to change the field organization of the Customs Service by consolidating the Customs districts of Houston, Galveston, and Port Arthur, Texas, under the Houston District and by consolidating the Galveston and Houston ports of entry in the new Houston District. The proposed consolidation of the Customs districts would significantly reduce administrative salaries and expenses without impairing services to area businesses or the general public. The proposed consolidation of the ports of entry would result in simplified vessel entry and clearance procedures, fewer penalties for vessels failing to comply with these procedures, reduced overtime expenses, and reduced paperwork for all parties involved. The proposed change is part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATES: Comments must be received on or before February 17, 1981.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations and Information Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
Renee DeAtley, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a cotinuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, the Customs Service proposes to consolidate the Houston, Galveston, and Port Arthur, Customs Districts.

Inasmuch as the three districts are located near one another and perform similar services, it is estimated that the proposed consolidation would significantly reduce administrative salaries and expenses without impairing Customs ability to provide services to area businesses or the general public. In addition, Customs brokers currently licensed in one of the affected districts would be considered licensed in the other districts.

Vessels moving between Galveston and Houston must now enter and clear Customs at both ports of entry as required by 19 U.S.C. 1443 and 1444. The proposed consolidation of the ports would allow vessels to enter and move between various locations along the 43-mile stretch of the channel between Galveston and Houston by entering and clearing at either port.

In addition, merchandise unladen at Galveston destined for Houston now must be shipped in-bond, requiring an entry at Galveston before it can be moved. Under the single-port concept, the merchandise could arrive at Galveston, be shipped to Houston without bond and entered for Customs purposes at Houston. An importer also could make entry at Houston and pick up merchandise at Galveston.

It is anticipated that the proposed consolidation also would reduce penalties incurred if carriers fail to enter and properly clear merchandise being shipped between Galveston and Houston; reduce overtime because carriers frequently travel between the ports outside normal business hours; and reduce paperwork for carriers, importers, and Customs because of the reduction of penalty cases and after hour entries. As consolidated, the new Houston District limits would encompass:

That part of the State of Texas lying south of latitude 32 degrees N., and east of longitude 97 degrees W., including the area fromn Sabine Pass north along the State line to the north boundary line of Shelby County; west to the Neches River; down the western shore of the Neches River to the north boundary of Jefferson County; westerly along that boundary to the east boundary of Liberty County; south to the Gulf of Mexico; also the counties of Galveston, Matagorda, Chambers, Calhoun, Refugio, Brazoria, San Patricio, Nueces, and Aransas in the State of Texas and the parishes of Cameron and Calcasieu in the State of Louisiana.

The following ports of entry would be included in the Houston District:

Houston-Galveston, Beaumont, Orange, Port Arthur, Sabine, Port Bolivar, Texas City, Corpus Christi, Freeport, and Port Lavaca-Point Comfort, Texas; and Lake Charles, Louisiana.

The port limits for the consolidated port of Houston-Galveston would encompass:

All of the territory within the corporate limits of the City of Houston; the territory embracing Harris County lying east of the corporate limits of Houston, bounded on the north by Crosby Road, and on the south by Clear Creek, and Clear Lake; and Galveston, Texas, including Port Bolivar and Texas City, all in the State of Texas.

If the proposed change is adopted, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), would be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations and Information Division, Room 2426, headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

Authority

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (44 FR 31057).

Drafting Information

The principal author of this document was James A. Seal, Regulations and Information Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: November 28, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-39033 Filed 12-15-80; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

20 CFR Ch. III

21 CFR Ch. I

42 CFR Ch. I–IV

45 CFR Subtitles A and B

Improving Government Regulations; Delay in Publication of Semiannual Agenda of Regulations

Editorial Note: The Department of Health and Human Services semiannual agenda of regulations, which was scheduled for publication on Tuesday, December 16, 1980, will not appear until Friday, December 19, 1980, because of production and printing difficulties.

BILLING CODE 1505-02M

Food and Drug Administration

21 CFR Parts 180 and 182

[Docket No. 80N-0418]

Caffeine; Deletion of GRAS Status, Proposed Declaration That No Prior Sanction Exists, and Use on an Interim Basis Pending Additional Study

Correction

In FR Doc. 80–32777, published at page 69817, in the issue of Tuesday, October 21, 1980, make the following corrections:

1. On page 69822, third column, second full paragraph, the third through fifth sentences should read:

Two litters were totally resorbed at 80 mg/kg and 4 litters were resorbed at 125 mg/kg. Other increases in resorption also were observed at the 80 and 125 mg/kg dose levels. Significant decreases were observed in fetal weights and crown-rump distances in both males and females at 80 and 125 mg/kg and in female fetal weight and crown-rump distance at 40 mg/kg.

2. On page 69826, third column, third full paragraph, 11th line, the word now reading "mates" should read "males".

3. On page 69830, first column, last line, "201l(s)" should read "201(s)".

4. On page 69834, third column, second full paragraph, material was dropped from the sentences at the end of the paragraph. Beginning on the fifth

line from the end of the paragraph, the last two sentences should read:

This will allow the agency to determine if the on-going studies meet current standards for carcinogenicity testing. If the on-going studies are found to be deficient by current standards, additional studies will be required.

5. In that same column, last paragraph, in the fourth line, the term now reading "long-erm" should read "long-term".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 235

[Docket No. R-80-900]

Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional Waiver Request.

SUMMARY: Section 7(o)(4) of the Department of HUD Act permits the Secretary to request waiver of the legislation's requirements in appropriate instances. This Notice lists and briefly summarizes for public information an interim rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of the General Counsel, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both Congressional Banking Committees the interim rule listed below. The purpose of the transmittal is to request waiver of both the 15-day prepublication review period, under Section 7(o)(2), and the 30-day delayed effective date for the interim rule under Section 7(o)(3) of the Department of Housing and Urban Development Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Interim Rule—24 CFR Part 235—Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation

This interim rule amends several Sections of 24 CFR in order to comply with the intent of the Housing and Community Development Act of 1980. The new provision will provide for an increase in the Section 235 maximum mortgage amounts. The maximum mortgage amount for a single-family dwelling unit or a one-family unit in a condominium project is $40,000. In such cases where there are five or more persons requiring a minimum of four bedrooms, the maximum mortgage amount is $47,500. In geographical areas where the Secretary finds cost levels so require, these limits may be raised up to $7,500.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o); Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., December 9, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-39025 Filed 12-15-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 72

Attorney Contracts With Indian Tribes; Payment of Tribal Attorney Fees With Appropriated Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed Rule.

SUMMARY: This proposed rule clarifies the circumstances under which the Bureau of Indian Affairs (BIA), in the performance of the Federal Governments trust responsibility to Indian tribes and under the general authority conferred by 25 U.S.C. 13, may provide funds to an Indian tribe for the payment of a private attorneys legal services. This rule is being proposed to eliminate uncertainty about the Bureau of Indian Affairs' current, informal policy toward the payment of private attorney fees for Indian tribes. The proposed rule describes the circumstances under which the BIA has discretion to provide funds to a tribe to pay private tribal attorney fees, the factors to be considered in determining whether to provide such funds and the procedure to be followed when requesting funds.

DATE: Comments must be submitted on or before January 1, 1981.

ADDRESS: Written comments must be addressed to Department of the Interior, Office of the Solicitor, 18th & C Streets, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Hans Walker, Jr., Associate Solicitor, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343-9401.

SUPPLEMENTARY INFORMATION:

General Background

In ordinary circumstances legal services are provided for Indian tribes (i) by private counsel paid by the tribe, or (ii) when by the Federal Government in performance of the trust responsibility to Indian tribes, by the Office of the Solicitor of the Department of the Interior and/or by the Department of Justice. Services provided by the Department of the Interior in fulfillment of the United States' trust responsibility include legal advice regarding the conservation and development of trust resources, the operation of tribal government and management of various BIA programs as well as representation of those tribal interests before various federal and state agencies. The Department of Justice represents the United States as trustee for tribes in cases involving litigation to protect their trust resources, including land, water and mineral rights, hunting and fishing rights and miscellaneous rights and benefits claimed under treaties, agreements, executive orders, and statutes.

It is the general policy of the Department of the Interior not to pay for legal services furnished to an Indian tribe by private legal counsel. There are, however, exceptions to that policy. An exception is recognized in the litigation context when the Attorney General refuses assistance or his assistance is not otherwise available. The Act of March 11, 1893, 25 U.S.C. 175, which provides for the representation of Indian tribes by the United States Attorney "in all suits in law and in equity" has been held inapplicable in those situations. (See Comptroller General's Opinion, B-114868 of December 6, 1976). The Department of the Interior, notwithstanding such conflict, has made fund available to obtain private counsel for tribes in such cases.

The Department also has made funds available to pay for private attorneys to represent Indian tribes in administrative proceedings before federal or state agencies where a conflict of interest arising out of the Department of the Interior's broad jurisdiction over the public domain and natural resources precludes representation by the legal staff of the Office of the Solicitor. Occasionally, shortage of staff has also prevented representation of tribes interests by the Office of the Solicitor in administrative proceedings. Routine legal advice with respect to a tribe's

management of various BIA programs under Pub. L. 93–638, the Indian Self-Determination and Assistance Act, 25 U.S.C. §450, has been rendered by private attorneys paid from funds provided by the BIA when the Solicitor's Office has been unable because of staff shortages to provide such services.

Description of Proposed Rule

This proposed rule states Department policy regarding the expenditure of appropriated federal funds for the payment of private attorneys for Indian tribes in fulfillment of the Federal Government's trust responsibilities. Section 72.41 states exceptions to the general policy against payment of fees to private counsel which is set forth in § 72.40. These exceptions are designed to provide, in exceptional circumstances, for assistance to tribes in meeting legal services expenses in litigation, administrative proceedings and the management of BIA programs. The proposed rule also identifies factors to be considered in deciding whether funds should be expended.

Section 72.41(a) provides when litigation is involved, that the BIA may fund private counsel to enable a tribe to prosecute a suit involving its trust resources, treaty rights, or governmental powers *provided* the Attorney General advises the Solicitor, for reasons other than the lack of merit in the tribe's legal position, that the Department of Justice cannot or will not represent the United States as trustee for the tribe.

Provision is also made for the payment of funds on a matching basis with the tribe to enable the tribe to assume an oversight role in unusually complex and protracted litigation conducted by the United states on the tribe's behalf (§ 72.41(e)). Such fees may be paid only for oversight activities. Although the Department of Justice ordinarily represents the United States as trustee for Indian tribes in litigation, the special interests of the tribe in the outcome of the controversy may warrant inclusion of some provision for tribal attorney oversight of the Federal Government's development and conduct of the litigation in this category of cases.

The policy for administrative proceedings parallels that for litigation. Section 72.41(c) provides that funds may be provided so that a tribe may secure private representation when involved in administrative proceedings when the tribe's trust resources, treaty rights or governmental powers are at issue and a conflict of interest precludes representation by the Office of the Solicitor.

Finally § 72.41(b) provides that funds may be made available to a tribe to pay private counsel to perform routine legal services needed to carry out BIA programs managed by an Indian tribe pursuant to Pub. L. 93–638, the Indian Self-Determination and Assistance Act, 25 U.S.C. § 450. The Solicitor must have determined that services of the Office of the Solicitor will be unavailable before payments to tribes for private counsel may be authorized.

A committee comprised of the Associate Solicitor for Indian Affairs, the Director of the Office of Trust Responsibilities in the Bureau of Indian Affairs and the Commissioner of Indian Affairs is established to review, in accordance with the factors set forth in § 72.42, each request from a tribe for funds (§ 72.43(a)). The committee will recommend, for the final approval of the Assistant Secretary for Indian Affairs, those requests deemed meritorious. The committee will include in its recommendation an estimate of the total funds required to provide assistance for the tribe, the hourly rate allowable and the tribe's contribution, if any, toward payment of its legal expenses (§ 72.43(b)). Final authority to approve or disapprove a tribal request rests with the Assistant Secretary for Indian Affairs.

Section 72.42 sets forth four general factors to be considered by the committee and the Assistant Secretary in their review of a tribe's request for funds to finance its participation in litigation or an administrative proceeding. These factors include an evaluation of the merits of the tribe's legal position and an examination of the tribe's financial resources (§ 72.42 (a) and (b)).

If funds are requested for litigation purposes, the committee and Assistant Secretary should also consider whether litigation provides the most efficient and satisfactory means for the resolution of the issues raised by the tribe, and whether such issues may be resolved by litigation being conducted by another tribe (§ 72.42 (c) and (d)).

Finally, § 72.43(c) expressly provides that all other rules pertaining to attorney contracts with Indian tribes are not affected by this rule. In particular, the general procedure outlined in Parts 71 and 72 of Title 25 for Secretarial approval of tribal attorney contracts remain in full force.

The primary author of this document is Hans Walker, Jr., Associate Solicitor, Office of the Solicitor, Department of the Interior.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The Department has also determined that the National Environmental Policy Act is inapplicable to this proposed rule.

Part 72 of Title 25 is proposed to be amended as follows:

1. The authority citation for Part 72 is proposed to be revised to read as follows:

(5 U.S.C. 301; Secs. 72.1 to 72.6 also issued under 25 U.S.C. 476; Secs. 72.7 to 72.26 also issued under 25 U.S.C. 81; Secs. 72.30 to 72.35 also issued under 25 U.S.C. 2, 9 and 82(a); Secs. 72.40 to 72.43 also issued under 25 U.S.C. 13, 450 et seq. and 208 DM 8)

2. Part 72 is proposed to be amended by adding §§ 72.40 to 72.43 to read as follows:

PART 72—ATTORNEY CONTRACTS WITH INDIAN TRIBES

* * * * *

Payment of Tribal Attorney Fees With Appropriated Funds

Sec.

72.40 General policy.
72.41 Exceptions to policy.
72.42 Factors to be considered.
72.43 Procedures.

* * * * *

§ 72.40 General policy.

In ordinary circumstances, legal services with respect to trust resources are provided for Indian tribes (a) by private counsel employed by tribes when such tribe is financially able and elects to do so, or (b) by the United States as trustee through the Office of the Solicitor and/or the Department of Justice. It is the policy of the Department of the Interior not to pay for private counsel to represent Indian tribes. Exceptions to that policy are listed in § 72.41 of this part.

§ 72.41 Exceptions to policy.

The Assistant Secretary for Indian Affairs upon receipt of a recommendation as provided by § 72.43 may, in his or her discretion, authorize the expenditure of appropriated funds to permit an Indian tribe to secure private legal representation in the following circumstances:

(a) A tribe desires to bring an action to protect its trust resources, rights claimed under a treaty, agreement, executive order, or statute, or its governmental powers and (i) the Interior Department has, because of conflicts within the Department, refused to submit a request to the Department of Justice to initiate litigation or (ii) the Attorney General refuses assistance or his assistance is not otherwise available. Comptroller General's Opinion B–114868, December 6, 1976.

(b) The Commissioner of Indian Affairs determines that a contract with the tribe pursuant to Pub. L. 93–638, 25 U.S.C. 450, requires that legal services, other than for litigation, be provided. In such instances, the Solicitor shall determine the extent to which services can be performed by the Office of the Solicitor before funds may be made available to a tribe to employ private counsel.

(c) In administrative proceedings involving trust resources before the Board of Indian Appeals or other state or federal administrative agencies when legal services would be provided but for a conflict of interest.

(d) In a controversy involving an Indian tribe's trust resources, rights claimed under a treaty, agreement, executive order, statute, or governmental powers where there exists a substantial possibility of a negotiated settlement or agreement as an alternative to litigation.

(e) In unusually complex and protracted litigation where the Department of Justice is representing the United States in its trusteeship capacity and where the tribe seeks assistance in meeting a portion of its legal expenses for review and oversight of the conduct of litigation. The following restrictions apply to all funds paid under this subparagraph:

(1) Funds may be paid only for oversight activities and not for litigation.

(2) Funds are to be provided on a matching basis with the tribe, taking into account the tribe's ability to pay.

(f) Payment of fees will not be allowed if such payment was not authorized before services were performed.

(g) This rule applies to expenditure of appropriated federal funds and not to a tribe's own funds on deposit in the U.S. Treasury.

§ 72.42 Factors to be considered.

The following factors are to be considered in determining whether funds should be paid to provide private legal representation for a tribe involved in litigation or an administrative proceeding under § 72.41(a), (b), (d), and (e):

(a) The merits of the legal position which the tribe asserts. Greater weight will be given to those cases where the tribe's legal argument is deemed particularly meritorious than to those cases where the tribe's position, although not entirely without merit, may be relatively weak;

(b) The ability of the tribe to pay all or a part of its legal expenses out of its own funds. A review of the tribe's financial resources under this subsection may include an examination of the tribe's total expenditures to determine whether its expenditures for other purposes comport with the asserted importance of the case for which it seeks funds;

(c) Whether the question the tribe seeks to litigate is being litigated in another case by another tribe; and

(d) Whether, as a matter of strategy, the issues the tribe seeks to litigate could be more satisfactorily resolved in another forum, in a different factual context, or at a different time.

§ 72.43 Procedure.

(a) A tribe seeking funds under § 74.41 shall submit a written request, including a detailed statement describing the nature and scope of the problems for which legal services are sought, to the Commissioner of Indian Affairs. Such request shall be considered by a committee consisting of the Commissioner of Indian Affairs, or his delegate, the Director of the Office of Trust Responsibilities in BIA or his delegate, and the Associate Solicitor for Indian Affairs or his delegate.

(b) If two of the three committee members recommend approval of a tribe's request, the request, along with the committee's recommendation, shall be submitted to the Assistant Secretary for final determination. The committee's recommendation shall indicate the amount of funds recommended to assist the tribe, the hourly rate allowed, the maximum amount permitted to be expended in the recommended action and the tribal contribution, if any.

(c) The requirements imposed by this policy are supplementary to those contained in all existing regulations dealing with attorney contracts with Indian tribes and, in particular, those contained in Parts 71 and 72 of this title.

Dated: December 9, 1980.

Thomas W. Fredericks,

Assistant Secretary—Indian Affairs.

[FR Doc. 80-39035 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-01-M

Bureau of Mines

30 CFR Part 602

Purchases of Helium by Federal Agencies; Proposed Revised Regulations

AGENCY: Bureau of Mines, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes new regulations associated with the purchase of helium by Federal agencies. The proposed regulations reflect changes required to conform them to Federal court decisions which invalidated current regulations.

DATE: Comments on the proposed revised regulations must be submitted, in duplicate, on or before January 15, 1981.

ADDRESS: Comments may be directed to: Division of Helium Operations, Bureau of Mines, Box H 4372 Herring Plaza, Amarillo, Texas 79101.

FOR FURTHER INFORMATION CONTACT: M. H. Williamson, Office of Planning & Analysis, Division of Helium Operations, Bureau of Mines, Box H 4372 Herring Plaza, Amarillo, Texas 79101, A/C 806 376–2614, FTS 734–2614.

SUPPLEMENTARY INFORMATION: This proposed revision is pursuant to the Helium Act, approved September 13, 1960 (74 Stat. 918; 50 U.S.C. 167).

The primary author of this document is M. H. Williamson, Office of Planning and Analysis, Division of Helium Operations, Bureau of Mines, Box H 4372 Herring Plaza, Amarillo, Texas 79101, A/C 806 376–2614, FTS 734–2614.

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

In light of the foregoing, it is proposed to amend 30 CFR Part 602 as set forth below.

Dated: December 9, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

CHAPTER VI—BUREAU OF MINES

PART 602—HELIUM DISTRIBUTION CONTRACTS

Sec.

602.1 Purpose.
602.2 Definitions.
602.3 Bureau helium distribution contractor.

Authority: The Helium Act of 1960, Pub. L. 86–777, 50 U.S.C. 167, et seq., 5 U.S.C. 301.

§ 602.1 Purpose.

The purpose of this Part 602 is to establish procedures governing distribution of Bureau of Mines helium by a system of authorized private helium distributors. To the same end, the regulations prescribe certain requirements that must be met by private helium distributors under new contracts, entered into with the Bureau of Mines with an effective date of January 1, 1981, or later, to distribute Bureau of Mines helium.

§ 602.2 Definitions.

As used in this part—

(a) "Helium Act" means Public Law 86–777, 74 Stat. 918 (50 U.S.C. 167–167n).

(b) "Helium" means the element helium regardless of its physical state.

(c) "Bureau of Mines helium" or "Bureau helium" is helium, regardless of physical state or purity, available for purchase or purchased from the Secretary or a Bureau helium distribution contractor after the effective date of this revision of 30 CFR 602. Bureau helium cannot be obtained from any other source of supply. Bureau of Mines helium includes volumes of helium available for delivery or delivered to the purchaser or Bureau helium distribution contractors in the High-Purity gaseous physical state or liquid physical state, and volumes of High-Purity gaseous helium used as raw stock to produce (1) liquid helium, and the liquid produced therefrom, (2) a gaseous or liquid mixture having a purity of helium different from High-Purity, (3) a gaseous or liquid mixture having a concentration of helium-4 isotope different from the concentration of such isotope in High-Purity helium, and (4) helium mixtures different in any other way from High-Purity gaseous helium. Bureau helium does not include private helium stored under contract with the Bureau and redelivered to the private enterprise in crude, High-Purity gaseous, or liquid helium form.

(d) "High-Purity" gaseous helium contains a minimum of 99.997 percent elemental helium by volume. The remaining 30 parts per million by volume (ppm) total impurities shall be limited to a maximum concentration of individual components of 23 ppm neon, 5 ppm nitrogen, 3 ppm oxygen, 3 ppm water vapor for helium in railway tank cars and automotive tube semitrailers or 8 ppm water vapor for helium in cylinders, 1 ppm hydrogen, and 1 ppm hydrocarbons.

(e) "Federal agency" means any department, independent establishment, commission, administration, foundation, authority, board, or bureau of the United States Government, or any corporation owned, controlled, or in which the United States Government has a proprietary interest, as these terms are defined in 5 U.S.C. 101–105; 5 U.S.C. 551 (1); 5 U.S.C. 552(e); or in 18 U.S.C. 6, but does not include Federal agency contractors.

(f) "Bureau Helium Distribution Contractor" is a private helium merchant (as defined by the Texas Business and Commerical Code Ann., Title 1, Sec. 2.104 (Uniform Commerical Code)) that, by new contract with an effective date of January 1, 1981, or later with the Bureau, has Bureau helium available for distribution.

(g) "Private helium purchaser" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, state or political subdivision thereof, purchasing or wanting to purchase helium. The term does not include Federal agencies, but does include Federal agency contractors.

(h) "Helium requirement" or "requirement of helium" is all helium, regardless of physical state or mixture with other gases, that is required by or delivered to a Federal agency to accomplish an objective, project, mission, or program of the Federal agency.

(i) "Major helium requirement" or major requirement of helium" is a helium requirement or delivery of 5,000 standard cubic feet (scf), measured at 14.7 pounds per square inch absolute pressure and 70° Fahrenheit temperature, or more, including liquid helium gaseous equivalent, during a calendar month, including the first 5,000 scf per calendar month when the "helium requirement" equals or exceeds 5,000 scf per calendar month.

(j) "Secretary" is the Secretary of the Department of the Interior.

(k) "Buearu" is the Bureau of Mines of the United States Department of the Interior.

§ 602.3 Bureau helium distribution contractor.

(a) Any private helium merchant may make application to the Bureau to become a Bureau helium distribution contractor and, upon meeting the requirements of this Part and upon execution of a three-year distribution contract with the Bureau, may become a Bureau helium distribution contractor. To be eligible, a prospective contractor must demonstrate: adequate financial resources to pay for Bureau helium and helium-related services in advance, adequate facilities and equipment to meet delivery schedules and quality standards required by purchasers of Bureau helium, a satisfactory record of performance in the distribution of helium, and/or other compressed gases, a certificate of competency and/or a determination of eligibility from the Small Business Administration if the prospective contractor is a small business concern and is determined to be nonresponsible and/or ineligible by the contracting officer, and be otherwise qualified and eligible to receive an award of a Bureau helium distribution contract under applicable laws and regulations. Effective January 1, 1981, and thereafter, only those helium merchants having a valid Bureau helium distribution contract shall be included on Bureau lists of Bureau helium distribution contractors.

(b) Bureau helium distribution contracts shall require the Bureau helium distribution contractor to deliver only bureau helium to supply (1) major helium requirements of any Federal agency, whether or not Bureau helium is specified by the agency, and (2) any helium requirement of any Federal agency if procurement documents in any manner specify or evidence intent to acquire Bureau helium. Information about which Federal agencies have major helium requirements is available from Bureau of Mines Division of Helium Operations, Box H 4372 Herring Plaza, Amarillo, Texas 79101, telephone 806 376–2638 or FTS 734–2638.

(c) Bureau helium distribution contacts shall also require the Bureau helium distribution contractor to deliver only Bureau helium to (1) any private helium purchaser, including Federal agency contractors, if procurement documents in any manner specify or evidence intent to acquire Bureau helium, or (2) another Bureau helium distribution contractor if certification as Bureau helium is required or funished.

(d) Contracts shall include provisions for sources of supply of Bureau helium, quantity, quality, delivery requirements, Bureau helium book inventory, actual physical volume of helium in inventory, commingling, accounting and reporting procedures, records and facilities examinations, shipping points, payments, and contract termination.

Bureau Helium Distribution Contract No. 14–09–0060 Between United States Department of the Interior, Bureau of Mines and

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Bureau Helium Distribution

Contract

This contract, made this —— day of ————, 19—, pursuant to the Helium Act (Act of 1960, Public Law 86–777, 74 Stat. 918, 50 U.S.C. 167 et seq., 5 U.S.C. 301), between the United States of America, Department of the Interior, Bureau of Mines, hereinafter styled Bureau of Mines, represented by the officer executing this contract, and ———— whose

principal address is ———— hereinafter styled Bureau Helium Distribution Contractor, or Contractor.

Witnesseth that:

Whereas, pursuant to provisions of the Helium Act: "The Department of Defense, the Atomic Energy Commission, and other agencies of the Federal Government, to the extent that supplies are readily available, shall purchase all major requirements of helium from the Secretary." (of the Department of the Interior);

Whereas, the Bureau of Mines, by virtue of authority delegated by the "Secretary" (of the Department of the Interior) under the Helium Act administers the production and distribution of helium for Federal use;

Whereas, the authorization of private helium merchants to particpate in the distribution of Bureau of Mines helium for Federal use is advantageous to both the United States Government and the private helium merchants; and

Whereas, an application to become a Bureau Helium Distribution Contractor, attached to and forming a part of this contract (Addendum A), has been received by the Bureau of Mines from the private helium merchant named as a party to this contract.

Now Therefore, in consideration of the mutual and dependent covenants herein contained, it is mutually agreed between the parties as follows:

Article I.—Definitions

1.1 "Bureau Helium Distribution Contractor" is a private helium merchant (as defined by the Texas Business and Commercial Code Ann., Title 1, Sec. 2.104 (Uniform Commercial Code)) that, by new contract with an effective date of January 1, 1981, or later with the Bureau, has Bureau helium available for distribution.

1.2 "Bureau" is the Bureau of Mines of the United States Department of the Interior.

1.3 "Bureau of Mines helium" or "Bureau helium" is helium, regardless of physical state or purity, available for purchase or purchased from the Secretary or another Bureau helium distribution contractor after the effective date of this contract. Bureau helium cannot be obtained from any other source of supply. Bureau of Mines helium includes volumes of helium available for delivery or delivered to purchasers or Bureau helium distribution contractors in the High-Purity gaseous physical state or liquid physical state and volumes of High-Purity gaseous helium used as raw stock to produce (1) liquid helium and the liquid produced therefrom, (2) a gaseous or liquid mixture having a purity of helium different from High-Purity, (3) a gaseous or liquid mixture having a concentration of helium-4 isotope different from the concentration of such isotope in High-Purity helium, and (4) helium mixtures different in any other way from High-Purity gaseous helium. Bureau helium does not include private helium stored under contract with the Bureau and redelivered to the private enterprise (owner) in crude, High-Purity gaseous, or liquid helium form.

1.4 "Contracting Officer" is the person executing this contract on behalf of the Government and includes a duly appointed successor or authorized representative.

1.5 "Federal Agency" is any department, independent establishment, commission, administration, foundation, authority, board, or bureau of the United States Government, or any corporation owned, controlled, or in which the United States Government has a proprietary interest, as these terms are defined in 5 U.S.C. 101–05; 5 U.S.C. 551(1); 5 U.S.C. 552(e); or in 18 U.S.C. 6, but does not include Federal agency contractors.

1.6 "Federal Agency Contractor" is any individual, corporation, partnership, firm, association, trust, estate, public or private institution, or a State or political subdivision thereof which has entered into or that is obligated by a contract or cooperative agreement with a Federal agency, or received a grant from a Federal agency, or which subcontracts with a Federal Agency Contractor.

1.7 "Private helium purchaser" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, state or political subdivision thereof, purchasing or wanting to purchase helium. The term does not include Federal agencies, but does not include Federal agency contractors.

1.8 "Helium" is the element helium regardless of its physical state.

1.9 "Helium Requirement" or "Requirement of Helium" is all helium, whether in the gaseous or liquid state or in mixtures with other gases, that is required by or delivered to a Federal agency, to accomplish an objective, project, mission, or program of the Federal agency.

1.10 "Major Helium Requirement" or "Major Requirement of Helium" is a helium requirement of 5,000 scf or more during a calendar month, including the first 5,000 scf per calendar month when the "helium requirement" equals or exceeds 5,000 scf per calendar month.

1.11 "Secretary" is the Secretary of the Department of the Interior.

1.12 "Shipping Point" is a shipping facility of the Bureau Helium Distribution Contractor from which Bureau of Mines helium is available.

1.13 "Standard cubic foot" (scf) is a 1-cubic-foot volume of High-Purity helium measured at a pressure of 14.7 pounds per square inch absolute and a temperature of 70° Fahrenheit. Volumes of liquid helium shall be expressed in liters or U.S. gallons. One liter of liquid helium is equivalent to 26.63 standard cubic feet of gaseous helium. One U.S. gallon of liquid helium is equivalent to 100.8 standard cubic feet of gaseous helium. One pound of liquid helium is equivalent to 96.67 standard cubic feet of gaseous helium. Appropriate High-Purity gaseous equivalents of volumes of helium mixtures different in any way from High-Purity gaseous helium may be used, and such equivalents must be used when required by the Division of Helium Operations, Bureau of Mines, Amarillo, Texas.

1.14 "High-Purity" gaseous helium contains a minimum of 99.997 percent elemental helium by volume. The remaining 30 parts per million by volume (ppm) total impurities shall be limited to a maximum concentration of individual components of 23 ppm neon, 5 ppm nitrogen, 3 ppm oxygen, 3 ppm water vapor for helium in railway tank cars and automotive tube semitrailers or 8 ppm water vapor for helium in cylinders, 1 ppm hydrogen, and 1 ppm hydrocarbons.

Article II.—Term of Contract

2.1 This contract shall be effective on the date heretofore stated and shall remain effective for a period of three (3) years thereafter unless sooner terminated as hereinafter provided in Section 6.2 or for default.

Article III.—Bureau Helium Distribution Contractor

3.1 The Bureau Helium Distribution Contractor (hereafter styled Contractor) shall deliver only Bureau of Mines helium to supply: (1) major helium requirements of a Federal agency without regard as to whether or not Bureau of Mines helium is specified by the agency, (2) any quantity of helium to a Federal agency if procurement documents specify in any manner that Bureau of Mines helium be furnished, (3) any quantity of helium to private helium purchasers if procurement documents specify in any manner the intent that Bureau of Mines helium be furnished, (4) any quantity of helium to another Bureau helium distribution contractor if certification as Bureau of Mines helium is required or furnished.

3.2 Helium delivered for Federal use under the terms of this contract shall conform to the quality, quantity, and delivery requirements agreed to between the Contractor and the purchasing Federal Agency or private helium purchaser.

3.3 Each delivery of helium that requires Bureau of Mines helium in accordance with Sec. 3.1 of this contract shall be made only from an inventory of Bureau of Mines helium on hand except as provided in Sec. 3.4 of this contract.

3.4 Helium is a fungible commodity; therefore, the Contractor may commingle Bureau of Mines helium with helium from other sources. For purposes of Bureau helium accounting records, as much of the Contractor's helium inventory will be considered Bureau of Mines helium as is equal to the volume of: (1) helium purchased from the Bureau of Mines and delivered to the Contractor, plus (2) helium delivered to the Contractor by another Bureau helium distribution contractor and certified as Bureau of Mines helium in accordance with Sec. 3.11 of this contract, less (3) helium deliveries in accordance with Sec. 3.1 of this contract. The Contractor may, except as restricted by Sec. 3.6 of this contract, sell as Bureau of Mines helium volumes of helium from its inventory even though its inventory does not contain, at the time of sale, sufficient helium purchased from the Bureau of Mines or helium received from and certified as Bureau of Mines helium by another Bureau helium distribution contractor to meet the Bureau of Mines helium requirements of the purchaser; however, the Contractor shall report such sales as sales of Bureau of Mines helium and shall, within thirty (30) calendar days following the end of a reporting period or discovery of a negative inventory of Bureau of Mines helium, whichever is sooner, place a firm procurement order with the Bureau of Mines

or another Bureau helium distribution contractor for sufficient Bureau of Mines helium to restore its Bureau of Mines helium inventory to a positive value. Failure to order sufficient helium within the thirty- (30) day period shall be sufficient grounds to terminate this contract for cause, according to Sec. 3.7.

3.5 The Contractor's opening inventory of Bureau of Mines helium on its initial report to the Bureau shall be any Bureau of Mines helium received and not delivered in accordance with the provisions of this contract within the thirty- (30) day period immediately preceding the effective date of this contract, except that, in the event that the Contractor was an Eligible Private Helium Distributor at the time of entering into this contract, opening inventories under this contract will be determined by the Bureau of Mines based on the Eligible Distributor's reports for the previous reporting periods and examination of Eligible Distributor's helium accounting records by a Bureau representative.

3.6 The inventory balance of Bureau helium at the end of an annual reporting period may be carried forward as the opening inventory for the subsequent period, provided, however, that at no time shall the inventory of Bureau helium exceed the total volume of helium in physical inventory.

3.7 At the end of each annual reporting period, the Contractor shall have a positive or zero balance of Bureau of Mines helium in its inventory. Negative closing balances of Bureau of Mines helium at the end of the annual reporting period, whether reported by the Contractor on its "Bureau of Mines Helium" (Addendum C), or revealed through Bureau of Mines examination of the Contractor's Bureau helium accounting records, if not changed to a positive value within thirty (30) days according to Sec. 3.4, shall be sufficient cause for termination of this contract.

3.8 The Contractor shall not add or delete shipping points designated in the original application (Addendum A) except through amendment of this contract. The Contracting Officer, upon receipt of a written request from the Contractor to amend the contract to add or delete shipping points, along with a full explanation of the reason therefor, may send a contract amendment to the Contractor for execution or notify the Contractor of rejection of the request.

3.9 The Contractor shall keep Bureau helium accounting records necessary to show compliance with this contract. Such records shall be kept in a central location and shall be retained for one (1) year following the last day of the applicable annual reporting period. Helium accounting records shall include but are not limited to the following: (1) records of sales of Bureau of Mines helium to each Federal agency and to each private helium purchaser, (2) all pertinent documents supporting sales of Bureau of Mines helium, (3) helium sales contracts between the Contractor and another Federal Agency Contractor who, in the opinion of the Contracting Officer, may reasonably be considered a Federal Agency Contractor, (4) all pertinent documents supporting any contention that a Federal Agency Contractor was not required to use Bureau of Mines helium to meet the requirements of a Federal Agency, or a Federal Agency Contractor whose order intended delivery of Bureau of Mines helium in the opinion of the Contracting Officer, (5) certificates of Resale of Bureau of Mines helium certifying the resale of helium as required by Sec. 3.11 of this contract.

3.10 The Contracting Officer or his duly authorized representative shall have access to and the right to examine, during the Contractor's normal business hours, any pertinent books, documents, records, and physical facilities involving transactions related in any way to this contract.

3.11 Sales of Bureau of Mines helium to another Bureau helium distribution contractor shall be certified on a "Certificate of Resale of Bureau of Mines Helium" as illustrated in Addendum B to this contract. The original of the Certificate shall be furnished to the buyer. The Contractor shall submit a fully executed copy of each Certificate issued during a reporting period with its annual report of "Bureau of Mines Helium." One copy of each Certificate issued shall be retained in the Central Bureau helium accounting records of the Contractor.

3.12 Receipts of Bureau of Mines helium from another Bureau helium distribution contractor shall be substantiated by the original "Certificate of Resale of Bureau of Mines Helium" executed and issued by the selling Bureau helium distribution contractor at the time of the sale and retained in the buying contractor's Bureau helium accounting records according to Sec. 3.9(5). The buying contractor shall submit a copy of each original Certificate received during a reporting period with its annual report of "Bureau of Mines Helium," (Addendum C). No claimed receipt of Bureau of Mines helium from another Bureau helium distribution contractor will be allowed on an annual report unless fully supported by copies of valid Certificates.

3.13 The Form No. 6–1575–S Rev., "Bureau of Mines Helium," attached as Addendum C to this contract, shall be used by the Contractor to report the stocks, receipts, and distribution of Bureau of Mines helium. The required reporting period is January 1 through December 31 of each calendar year. The reports are due at the Bureau of Mines office indicated below on or before the thirtieth (30th) day of January of each year following the applicable preceding reporting period. The completed forms shall be submitted to the Department of the Interior, Bureau of Mines, Division of Helium Operations, Box H 4372 Herring Plaza, Amarillo, Texas 79101. Copies of the blank form may be obtained from the above address.

Article IV.—Bureau of Mines

4.1 The Bureau of Mines will place the Contractor's name, address, and locations of designated shipping points on the Bureau of Mines list of Bureau Helium Distribution Contractors.

4.2 The Bureau of Mines will furnish its list of Bureau Helium Distribution Contractors to known users of Bureau of Mines Helium, and to other parties upon request, for their use in obtaining Bureau of Mines helium.

4.3 The Bureau of Mines authorizes the Contractor to sell and distribute Bureau of Mines helium in accordance with the provision of this contract and to compete in the open market for such sales of Bureau of Mines helium that are otherwise reserved to the Secretary of the Department of the Interior.

4.4 The Bureau of Mines will furnish, upon request by the contractor, information as to which Federal agencies have major helium requirements.

Article V.—Conditions

5.1 Repurchase Rights

The Bureau of Mines shall have the right to repurchase from the original purchaser helium that has been sold by the Bureau and that has not been resold, lost or dissipated, when needed for United States Government use, as provided in Sec. 6(e) of the Helium act. However, small volumes of Bureau helium purchased by the Contractor from another Bureau helium distribution contractor shall not be subject to repurchase by the Bureau.

5.2 Liability

(a) The Bureau of Mines warrants the quality and quantity of helium delivered to the original purchaser only and assumes no further liability, financial or otherwise, in connection with any sale or delivery of helium hereunder, including but not limited to claims relating to: (1) losses on business transactions or commitments between original purchaser and third parties, such as the Contractor, (2) losses on original purchaser's helium containers filled by the Bureau, or (3) losses occasioned by transportation delays.

(b) Contractor shall be liable for any and all actual damages to the Government caused by Contractor, Contractor's representatives, or Contractor's owned or leased equipment.

(c) Contractor is hereby advised that helium requirements of the United States Government shall have priority over non-Government requirements and that such priority requirements of the Government or occasions of Force Majeure may cause delay or deferral of shipment of any helium ordered by Contractor from the Bureau of Mines or another Bureau helium distribution contractor under this contract.

Article VI.—General Provisions

6.1 This contract cannot be assigned or otherwise transferred without the express written approval of the Contracting Officer.

6.2 This contract may be terminated at any time by either party by serving not less than sixty (60) days' written notice of termination upon the other party, stating therein the date that such termination shall be effective. In the event of contract termination under the provisions of this Sec. 6.2, a report of receipts and distribution of Bureau of Mines helium, as required by Sec. 3.13 of this contract, shall be submitted for the period from January 1 to the effective date of the termination in the calendar year in which the termination occurs within 15 days after the effective date of the termination.

6.3 Disputes

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in Sec. 6.3.a above, *provided,* that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

Standard Provisions

The remainder of the contract is comprised of nine standard provisions as follows:

6.4 Officials Not to Benefit
6.5 Covenant Against Contingent Fees
6.6 Utilization of Small Business Concerns
6.7 Utilization of Labor Surplus Area Concerns
6.8 Utilization of Minority Business Enterprises
6.9 Equal Opportunity
6.10 Affirmative Action for Handicapped Workers
6.11 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era
6.12 Clean Air and Water

In witness whereof, the parties hereto have caused this contract to be fully executed in duplicate by their proper officers the day and year first above written.

United States of America, Department of the Interior, Bureau of Mines.

By _____

Contracting Officer.

Bureau Helium Distribution Contractor.

_____

(Name of Individual or Company)

By _____

(Signature)

Title _____

(The following is to be executed if Contractor is a Corporation.)

I, the undersigned, hereby certify that I am the _____ Secretary of the above-named corporation; that the officer who signed this contract on behalf of such corporation was then acting in the capacity indicated; and that the records of the corporation, of which I have custody, indicate that such officer has the authority to so bind the corporation and that such authority is within the scope of its corporate power, and has not been revoked.

_____

(Signature)

(Affix Corporate Seal)

Addendum A to Contract No. 14–09–0060——

Application to enter into a contract with the United States Department of the Interior, Bureau of Mines, as a Bureau Helium Distribution Contractor

Application is hereby made on this date, _____, 19—, by _____ whose principal address is _____ to enter into a contract with the United States Department of the Interior, Bureau of Mines, as a "Bureau Helium Distribution Contractor." Upon acceptance of this application and execution of the contract by both parties, the Contractor may sell and distribute Bureau of Mines helium for Federal use and may compete in the open market for such sales that are otherwise reserved, by Statute, to the Secretary of the Department of the Interior.

Applicant submits the following information and attests to its accuracy and completeness, with the understanding that the Bureau of Mines may make further inquiry of Applicant or others. (If additional space is needed to answer any question, additional sheets may be attached. If additional sheets are used, please reference all answers to the applicable question number.)

1. As of the date of this application, applicant is ☐ or is not ☐ distributing helium for Federal use as a Bureau of Mines "Eligible Private Helium Distributor."

2. If the answer to 1. above is negative, applicant has ☐ or has not ☐ previously been an Eligible Private Helium Distributor.

3. Indicate the range of total volume of helium (commercial and/or Bureau of Mines helium) distributed by the Company during the past calendar year:

☐ More than 2,000 Mcf of gaseous helium.
☐ Less than

☐ More than 50,000 liters of liquid helium.
☐ Less than

4. Indicate the range of total volume of other compressed or liquefied gases distributed by the company during the past calendar year.

☐ More than 5,000 Mcf of compressed gases.
☐ Less than

☐ More than 100,000 liters of liquefied gases.
☐ Less than

5. List each shipping point, along with the mailing address thereof, that Applicant wishes to designate for distribution of Bureau of Mines helium for Federal use.

6. Describe Applicant's facilities and equipment to be used in supplying helium requirements of Federal use customers.

a. Plant and container filling.
b. Containers.
c. Quality control and methods.
d. Does Applicant have rail siding within or adjacent to its facilities?

7. Based on past performance records, estimate delivery time to Federal use customers that Applicant anticipates serving.

——% within 24 hours after receipt of order.

——% longer than 24 hours after receipt of order.

8. Based on Applicant's present accounting system, describe any problems that would result from the records and reporting requirements of the contract.

9. Present a statement of facts concerning Applicant's financial capability, including the maintenance of an inventory of Bureau of Mines helium to meet anticipated sales for Federal use.

The Government reserves the right to reject any application and not award a contract.

Applicant hereby acknowledges that it has reviewed the attached contract documents and agrees to the terms thereof, and further agrees that this application, if approved, will be attached to and form a part of the resulting contract.

_____

Name of Applicant

_____

Name and Title of Signer (Print or Type)

_____

Signature

_____

Date

Addendum B.—Certificate of Resale of Bureau of Mines Helium

I certify that on this —— day of _____, 198–, _____ standard cubic feet of Bureau of Mines helium (convert liquid helium to its gaseous helium equivalent) was sold from (Company) _____, to (Company) _____.

Name _____
Title _____
Company _____
Address _____

_____

Signature _____

BILLING CODE 4310-53-M

Form 6-1575-S
Helium Oper. (Rev. 8/80)

Addendum C

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF MINES
WASHINGTON D.C. 20241

BUREAU OF MINES HELIUM:
Stocks, Receipts & Distribution
Annual Report
Year 19____

INDIVIDUAL COMPANY
DATA - PROPRIETARY

The data furnished in this report will be treated in confidence by the Department of the Interior, except that they may be disclosed to Federal defense agencies, or to the Congress upon official request for appropriate purposes.

To: Bureau of Mines, Helium Operations
Department of the Interior
Box H 4372 Herring Plaza
Amarillo, Texas 79101

This report is required by contract. The Bureau of Mines may withhold deliveries under a contract or terminate a contract with a private helium distributor for failure to comply with the reporting provisions specified by contract.

SECTION 1. COMPANY IDENTIFICATION.

Each distributor should prepare this report. Indicate opening stocks, receipts, distribution and closing balance, in Section 2 for indicated annual period.

1. Your company name _____
2. Address _____

SECTION 2. STOCKS, RECEIPTS, AND DISTRIBUTION FOR INDICATED ANNUAL PERIOD.

Because sales of Bureau of Mines helium to civilian consumers are not required to be reported, the closing balance of Bureau of Mines helium may exceed the total closing helium inventory. However, it is not possible for the opening inventory of Bureau of Mines helium to exceed the total helium inventory at the beginning of a reporting period. Purchases and transfers from sources other than the Bureau of Mines must be supported by copies of certificates from suppliers. Copies of this certificate are enclosed with this mailing.

Item (1)	Liquid & Gaseous Helium Standard Cubic Feet 1/ (2)
1. Opening Inventory:	
(a) Carryover closing balance from previous period or total helium inventory, whichever is smaller	
2. Receipts:	
(a) By purchase from Bureau of Mines.	
(b) By purchase from another distributor.	
(c) Total receipts (equals 2(a) plus 2(b)).	
3. Total Available for Distribution this Period (equals 1(a) plus 2(c))	
4. Distribution:	
(a) By sale to Federal agencies	
(b) By certified sale to another distributor. . .	
(c) Total distribution (equals 4(a) plus 4(b)).	
5. Closing Balance (equals 3 minus 4(c)	
6. CLOSING INVENTORY (actual helium on hand at end of period)	

1/ Liquid helium shall be reported in gaseous helium equivalent. One liter of liquid helium is equivalent to 26.63 cubic feet and 1 gallon of liquid helium is equivalent to 100.8 standard cubic feet.

CERTIFICATION — I certify that the foregoing report is true, correct, and complete to the best of my knowledge and belief.

Name _____ Title _____

Signature _____ Date _____

Name of person to be contacted regarding this report	Tel. area code	No.	Ext.

Address No. Street	City	State	Zip

[FR Doc. 80-39018 Filed 12-15-80; 8:45 am]
BILLING CODE 4310-53-C

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; Wyoming

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule. Reopening of the public comment period on the proposed Wyoming cooperative agreement.

SUMMARY: The Office of Surface Mining (OSM) is reopening the period for review and comment on the proposed cooperative agreement between the Department of the Interior and the State of Wyoming which provides for State regulation of surface coal mining operations on Federal lands in Wyoming. The comment period under the proposed rulemaking to adopt a permanent program cooperative agreement closed on November 7, 1980. See **Federal Register** 64973–78, October 1, 1980. The comment period is being reopened until [Editor: 7 days after publication of this notice] in light of two meetings OSM held in executive session and comments received after November 7, 1980.

DATE: The period for public comment is reopened until 4:30 p.m. December 23, 1980.

ADDRESS: Send comments to the Office of Surface Mining, Division of Federal Programs, Interior South Building, 1951 Constitution Avenue, NW, Washington, D.C. 20240.

Records of the two meetings have been prepared and are available for public review in the Office of Surface Mining, Administrative Record Room, Room 153, Interior South Building, 1951 Constitution Avenue, NW, Washington, D.C. 20240. Copies of this information is also available for review in the Office of Surface Mining, Region V, Brooks Tower, 1020 15th Street, Denver, Colorado 80201.

FOR FURTHER INFORMATION CONTACT: Len Richeson, Program Specialist, Division of Federal Programs, Department of the Interior, South Building, 1951 Constitution Avenue, Washington, D.C. 20240. Telephone: 703–756–6970.

SUPPLEMENTARY INFORMATION: OSM published notice of its intent to adopt a cooperative agreement along with the text of the proposed agreement on July 8, 1980. 45 FR 45927–31.

This was followed by a notice of proposed rulemaking to adopt a cooperative agreement on October 1, 1980. 45 FR 64971–78. The October 1, 1980 Notice also extended the comment period to November 7, 1980. Since publication of the notice of intent and the text of the proposed agreement on July 8, 1980, OSM has continued to negotiate with the State on the agreement terms.

Of the two meetings noted above one was held on December 8, 1980, with Officials of the U.S. Geological Survey to discuss their concerns and written comments on the proposed agreement. The second meeting held in executive session occurred on December 11, 1980, with Officials of the State of Wyoming to discuss the final terms of the proposed agreement.

The meeting with the State on December 11, 1980 was held for the purpose of discussing final revisions to the agreement prior to its submission for approval by the Secretary and the Governor. No changes were made which affects the basic tenets of the agreement. In order to allow for review and comment on the record of the meetings noted above and the late comments received, OSM is reopening the comment period on the proposed agreement until [Editor: 7 days after publication of this notice].

Providing for public review and comment of the record of meetings held after the close of the regular comment period is consistent with the Department's "Guidelines for Contacts with Employees and Officials during consideration of State Permanent Regulatory Programs." These guidelines were previously discussed under the heading, Contacts with State Representatives," in the proposed rulemaking on the Wyoming permanent program cooperative agreement. 45 FR 64971–78, October 1, 1980.

Statements of Significance and Environmental Impact: The Department of the Interior has determined that this document is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 (March 23, 1978) and 43 CFR Part 14.

The Department has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared.

Donald A. Crane,

Regional Director, Office of Surface Mining, Region V.

[FR Doc. 80–39081 Filed 12–15–80; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1—FRL 1699–2]

Approval and Promulgation of Implementation Plans—Massachusetts; Notice of Proposed Rulemaking: Massachusetts Regulation 310 CMR 7.19 "Interim Sulfur-in-Fuel Limitations for Fossil Fuel Utilization Facilities Pending Conversion to an Alternate Fuel or Implementation of Permanent Energy Conservation Measures"

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a number of revisions to the Massachusetts State Implementation Plan (SIP) which will result in the raising of, for a temporary period, the sulfur-in-fuel limit from .5% or 1.0% to 2.2% sulfur by weight for certain sources in Massachusetts which are rated at less than 250 million Btu per hour and are currently using residual fuel oil. First, EPA is proposing to approve a revision to the SIP submitted to EPA for approval on September 12, 1980 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering, (the Massachusetts Department). The proposed revision would amend the SIP by adding a new regulation, 310 CMR 7.19, "Interim Sulfur-in-Fuel Limitations for Fossil Fuel Utilization Facilities Pending Conversion to an Alternate Fuel or Implementation of Permanent Energy Conservation Measures". Second, EPA is proposing to approve revised sulfur-in-fuel limitations for all sources which meet the eligibility requirements as specified by the Massachusetts Department. Individual SIP revisions for these individual sources will be submitted to EPA by the Massachusetts Department at some future dates, at which time EPA will proceed to final rulemaking for the individual sources.

By proposing to approve the revised sulfur-in-fuel limitations for the individual small sources now, in advance of completion of the technical review for the sources, EPA is departing from its current procedure whereby it conducts a separate proposed rulemaking only after the State has fully completed its review and determination for each individual source desiring relaxation of the limitations. It is EPA's belief that this new approach, which involves concurrent State/EPA procedures, will substantially accelerate

the processing time of applications for relaxation and eliminate duplication of effort by the State and EPA, and thus constitutes a significant regulatory reform over the current EPA review process for SIP revisions.

DATES: Comments must be received on or before January 15, 1981.

ADDRESSES: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, 401 M. St., S.W., Washington, D.C. 20460; the Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 1903, Boston, MA 02203; and the Department of Environmental Quality Engineering, Air and Hazardous Materials Division, Room 320, 600 Washington Street, Boston, MA. 02111.

Comments should be submitted to Harley Laing, Chief, Air Branch, Region I, Environmental Protection Agency, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–5609.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The original Massachusetts SIP, approved by EPA on May 31, 1972 (37 FR 10842), established limits for the sulfur content of residual fuel oil for each of the five Air Pollution Control Districts (the Districts) in Massachusetts under Regulation 310 CMR 7.05 "Sulfur Content of Fuels and Control Thereof". With certain exceptions, where the limit was 0.5%, the statewide limit was 1% sulfur fuel oil. The Massachusetts Department subsequently reviewed the sulfur-in-fuel regulations for each District as required by Chapter 494 of the Massachusetts Acts of 1974 and submitted revisions to its SIP to allow certain sources rated at greater than 100 million Btu per hour to burn higher sulfur fuel oil temporarily. With exceptions, these temporary revisions were approved. Permanent revisions to Regulation 7.05 were later approved by EPA on a source by source basis on May 21, 1979 (44 FR 29453), July 16, 1979 (44 FR 41178) and October 2, 1979 (44 FR 56694) which allowed certain fossil fuel burning facilities in each of the five Districts to burn residual fuel oil with a maximum sulfur content of 2.2%

The Massachusetts Department has proposed that certain sources rated at less than 250 million Btu per hour, which are currently limited to burning residual fuel oil of .5% or 1.0% sulfur content, be permitted to burn, for a temporary period, fuel oil having a sulfur content of not more than 1.21 pounds per million Btu heat release potential, or 2.2% sulfur by weight. The requirements and conditions which the sources must meet in order to qualify and the procedure the Massachusetts Department must use in screening the sources to determine that they qualify and that their emissions will not violate the National Ambient Air Quality Standards (NAAQS) are contained in a proposed revision to the Massachusetts SIP submitted by the Massachusetts Department on September 12, 1980. The proposed revision would amend the SIP by adding a new regulation, 310 CMR 7.19, "Interim Sulfur-in-Fuel Limitations for Fossil Fuel Utilization Facilities Pending Conversion to an Alternate Fuel or Implementation of Permanent Energy Conservation Measures." The submittal includes a narrative explanation. On November 7, 1980, the Massachusetts Department submitted a clarification to the narrative.

The burning of less expensive higher sulfur fuel oil will provide the sources with some of the capital needed to pay the capital costs of conversion to a fuel other than residual fuel oil or to implement energy conservation measures. At the end of the temporary period during which the sources may burn the higher sulfur content fuel, the sources will be required to return to the original sulfur-in-fuel requirement or equivalent actual emissions.

Requirements of Proposed Regulation

1. *Eligibility Criteria.*

The Proposed regulation would require sources currently burning residual fuel oil and desiring permission to burn the higher sulfur fuel to make a commitment to either (a) commence conversion to an alternate fuel with equipment to insure that existing sulfur and total suspended particulate (TSP) emission limitations will be met, or (b) implement energy conservation measures to reduce residual fuel oil consumption such that no greater total emission of sulfur oxides or TSP will be emitted burning higher sulfur fuel than is presently allowed. "Alternate fuel" is defined as fuel other than a petroleum product, including wood, biomass, coal, coal oil mixture, and synthetic fuel. Renewable forms of energy that do not have the potential to emit air contaminants, including solar, hydro and wind, will be treated as energy conservation measures. In order to qualify, the conversion or conservation measures must reduce the consumption of oil by at least 50,000 gallons per year.

A source must complete its conversion or conservation measures within a time period set by the Massachusetts Department which will not exceed 30 months from the date of commencement of burning higher sulfur oil, unless the Massachusetts Department finds good cause for a longer period. Financial difficulty will not be considered good cause. Further, a source may not reapply for a second temporary sulfur relaxation. At the end of the period during which the source was allowed to burn higher sulfur fuel, the source must comply with one of the following: (1) the source shall burn a fuel with a sulfur content no greater than that in the fuel the source burned before it was approved to burn the higher sulfur content fuel under the new regulation; (2) the source shall have presented and implemented a plan approved by the Massachusetts Department whereby the use of the higher sulfur fuel would cause no greater emissions of SO_2 than if the lower sulfur fuel were used; (3) a source which prior to its approval under the new regulation was limited to 1% sulfur under Regulation 310 CMR 7.05 may continue to burn fuel containing up to 2.2% sulfur provided that, through permanent energy conservation measures approved by the Massachusetts Department, the source reduced its consumption of petroleum products at the facility by at least 56 per cent; or (4) a source which prior to its approval under the new regulation was limited to .5% sulfur fuel oil under Regulation 310 CMR 7.05 may continue to burn fuel containing up to 1% sulfur provided that, through permanent energy conservation measures approved by the Massachusetts Department, the source reduced its consumption of petroleum products at the facility by at least 50 per cent. As to items (3) and (4), a further requirement is that the SO_2 emissions may not be greater than before the source received approval under the new regulation to burn the higher sulfur content fuel.

2. *Screening Procedures.*

Applications to burn up to 2.2% sulfur fuel oil under this proposed regulation will be reviewed by the Massachusetts Department on a source by source basis for compliance with NAAQS and Class II Prevention of Significant Deterioration (PSD) increments. The NAAQS are maximum allowable ambient air pollutant concentrations which are set to protect public health and welfare. The NAAQS for SO_2 is 80 $\mu g/m^3$ based on an annual averaging time; 365 $\mu g/m^3$ based on a 24-hour averaging time; and 1300 $\mu g/m^3$ based on a 3-hour averaging time. The PSD increments are allowable

incremental increases in ambient pollutant concentrations which are set to limit the degradation of air quality over baseline leves.

The Class II SO_2 increments which apply are 20 $\mu g/m^3$ based on an annual averaging time, 91 $\mu g/m^3$ based on a 24-hour averaging time; and 512 $\mu g/m^3$ based on a 3-hour averaging time. (There are no Class I or III areas which would be affected.) The baseline date as defined by the August 7, 1980 PSD regulation amendment (45 FR 52676) is the date on which a source subject to the PSD regulations filed a permit application to construct or modify in an area designated attainment or unclassificable under Section 107(d)(1) of the Clean Air Act. The baseline date for the state of Massachusetts, which is the Section 107 designated attainment area, is August 4, 1978. This date was set by the application filed by the Massachusetts Municipal Wholesale Electric Company. In areas where PSD permits have been issued, portions of the PSD increments have been consumed. The increment consumption in these areas generally is the increase in actual SO_2 (as measured in $\mu g/m^3$ based on 3-hour, 24-hour and annual averaging times) added to the ambient air since the baseline date was set.

It should be noted, however, that the Massachusetts Department has indicated its intention to redesignate, in the near future, each city and town within the state as a Section 107 designated attainment area. When these re-designations become effective the baseline date will be set in only a few cities and towns and, thus, sources located outside these towns seeking approval under proposed Regulation 7.19 will not be required to comply with PSD increments. EPA will publish any such re-designation in the **Federal Register** and will reiterate the impact of such redesignations on this program.

The Massachusetts Department will use EPA's screening models (PTMAX and PTMTP, as revised by EPA) to calculate predicted maximum SO_2 contributions. EPA's VALLEY model will be used for sources located in complex terrain. If a source fail the initial screening test, any subsequent refined modeling analyses will be consistent will EPA guidance. The levels of SO_2 predicted by the models to be contributed by a source will be added to ambient SO_2 concentrations to determine compliance with NAAQS. These ambient concentrations will be determined by choosing from appropriate monitoring data the highest second maximum value from the three previous years of monitoring data, if available, or from a minimum of one year of data. If no monitoring data is available, data from the nearest representative site will be used. Emissions from other nearby major sources (greater than 100 tons per year actual SO_2 emissions) will be modeled for interaction with emissions from the source seeking the temporary sulfur in fuel relaxation.

Particulate emissions limits will not be relaxed.

The narrative portion of the new Massachusestts regulation stipulates that all modeling will be undertaken in conformance with the EPA stack height policy, and that source testing will be required at facilities that have converted to an alternate fuel when the conversion is completed.

EPA believes that Massachusetts has the resources necessary to carry out all parts of this program.

If a source fails to comply with any conditions of its approval the Massachusetts Department has the authority to assess a penalty upon the source, and to take other enforcement action.

SIP Revision Procedures

1. *Regulation 7.19.*

EPA is proposing approval of the new regulation. After receiving comments EPA will take final action of the regulation.

2. *Individual Sources.*

EPA is also today proposing to approve the revised sulfur-in-fuel limitation (as yet to be determined, up to 2.2% sulfur-in-fuel) for all sources which meet the eligibility requirement as specified by the Massachusetts Department in accordance with the provisions of the new regulations. The procedures to be used will involve concurrent State/EPA procedures.

This concurrent approach is a departure from EPA's normal rulemaking process for sulfur relaxations in Massachusetts which involves completion of state review before EPA commences its review and proposed and final rulemaking. This process has taken from four to six months, or even longer is some cases, and has involved duplication of effort by EPA and the Massachusetts Department.

Under this proposal, EPA will be conducting its proposed rulemaking process concurrently with the State's review. The Massachusetts Department will review the applications for sulfur relaxations under the new regulation for eligibility and will screen the sources in accordance with EPA approved modeling procedures. The Massachusetts Department will provide a thirty day public notice and comment period for each relaxation under the new regulation and will, in addition, maintain a mailing list of persons who wish to receive individual notices by mail. Persons wishing to be placed on the mailing list should notify the Massachusetts Department in writing at the following address: Kenneth Hagg, Acting Director, Department of Environmental Quality Engineering, Room 320, 600 Washington Street, Boston, MA 02203.

After the Department reviews applications of specific sources, it will submit copies of its final decisions to EPA, together with any comments received (and the Department's response) and a certification indicating that the source meets the eligibility requirements of the new regulation, that the Department has used EPA approved modeling, and that the Department has followed the approved public notice and comment procedures.

By this notice of proposed rulemaking EPA is putting the public on notice that it is proposing to approve all individual sources submitted to EPA by the Massachusetts Department as described above. Notice of the specific individual sources to be approved will be given only by the Department in accordance with its review procedures (including mailing such notices to persons on the mailing list referred to above). The public is encouraged to participate in the notice and comment period. EPA will of course be free to participate in the comment period.

Prior to taking its final action, EPA will review public comments submitted to the State during the State review process. Any member of the public wishing to submit comments to EPA should therefore submit comments to the State during the State review process, since EPA will not conduct an independent proposed rulemaking proceeding.

EPA believes that these procedures will provide the public with adequate notice and opportunity to comment both to the Massachusetts Department and EPA on the rulemaking regarding each individual source.

After receiving the Massachusetts Department's submittal containing its final decision as to relaxations for an individual source or group of sources, EPA will then take final action in the **Federal Register.** The effective date of the approval will be the date of such publication.

Because the Massachusetts Department will be using EPA approved modeling procedures to screen applicants and will be providing adequate public notice and comment and because EPA will review each

submittal from the Department to determine that these requirements are met, EPA will not conduct a separate proposed rulemaking after the Department has fully completed its review. As a result the time required for EPA's review will be shortened substantially. EPA's final rulemaking for relaxations for any individual source or group of sources will incorporate the new individual source emissions limits into the SIP and these limits will be enforceable by EPA under the Clean Air Act.

EPA anticipates that this concurrent State/EPA approach will save substantial time over EPA's normal review process and will thus be a significant regulatory reform.

Public comment is specifically solicited at this time on these proposed procedures.

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.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Section 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601).

Dated: November 18, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 80-38847 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-2-FRL 1702-7]

Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces the receipt of a request from the State of New York to revise its State Implementation Plan. If approved by the Environmental Protection Agency, the revision will alow the Niagara Mohawk Power Corporation to continue using fuel oil with a maximum sulfur content of 2.8 percent, by weight, in unit 5 of its Oswego generating facility, located in Oswego County, New York. Normally this facility would be required under State regulation to burn fuel oil with a maximum sulfur content of 2.0 percent, by weight. The State's submittal, extending its current "special limitation", allows the use of this higher, 2.8 percent sulfur content fuel oil for a maximum period of three years from the date that a final approval notice is published by EPA.

DATES: Comments must be submitted by January 15, 1981.

ADDRESSES: All comments should be addressed to: Charles S. Warren, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the proposal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 1005, Regional II Office, 26 Federal Plaza, New York, New York 10278

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233

New York State Department of Environmental Conservation, Region 2, 2 World Trade Center, 61st Floor, New York, New York 10047

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: On September 17, 1980 New York State submitted to the Environmental Protection Agency (EPA) a proposed revision to its State Implementation Plan (SIP). If approved by EPA, the revision will allow the Niagara Mohawk Power Corporation (NMPC) to continue using fuel oil with a maximum sulfur content of 2.8 percent, by weight, in unit 5 of its Oswego generating facility, located in Oswego County, New York. Normally this facility would be required under State regulation to burn fuel oil with a maximum sulfur content of 2.0 percent, by weight. The State's SIP revision request is in the regulatory form of a "special limitation," authorized by Section 225.2 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York. This "special limitation" allows the use of fuel oil with a maximum sulfur content of 2.8 percent, by weight, for a period of three years from the date that a final approval notice is published by EPA.

On July 20, 1976 (41 FR 29817) EPA initially approved a "special limitation" which allowed the use, until May 31, 1977, of 2.8 percent sulfur content fuel oil at units 1 through 5 at the Oswego facility. EPA approved a renewal until May 31, 1980 of this initial "special limitation" on April 24, 1978 (43 FR 17357). It should be noted that the current request for renewal applies only to unit 5 of the Oswego generating facility.

The New York State Department of Environmental Conservation has denied NMPC's request for permission to continue to use fuel oil with a sulfur content of 2.8 percent in units 1 through 4 at its Oswego generating facility. (The emissions from units 1 through 4 vent through a common stack, which is also shared by unit 5). This denial is based on operational problems which occur during the use of high sulfur content fuel oil, resulting in violations of the State's particulate matter and opacity limitations as set forth in Part 227 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York. In order to meet the particulate matter and opacity limitations, these four units currently are required to burn fuel oil with a sulfur content of 1.0 percent, by weight.

The State's SIP revision submittal consists of an order signed by the Commissioner of the New York State Department of Environmental Conservation promulgating the "special limitation," a public hearing officer's report, proof of publication of the State's hearing notice and a technical report, "An Analysis of SO_2 Concentrations in the Vicinity of the Oswego Steam Station, Oswego, New York," April 1980 prepared by the New York State Department of Environmental Conservation in support of the "special limitation." It was submitted in accordance with all EPA requirements under 40 CFR Part 51 including the need for a public hearing, which was held by the State on June 3, 1980.

In order for EPA to be able to find the State's "special limitation" approvable as a revision to the New York SIP, it must be demonstrated that the use of 2.8 percent sulfur content fuel oil will not result in the contravention of any health or welfare related national ambient air

quality standard or in a violation of any applicable Prevention of Significant Deterioration (PSD) increment.

EPA has reviewed the technical material submitted by the State and NMPC and has determined that no violation of national ambient air quality standards will occur. Furthermore, since the emission levels proposed by this action were included in the baseline as defined in EPA's PSD regulations, no PSD increment will be consumed as a result of its approval.

Based upon his review and EPA's own analysis of the technical material submitted, EPA proposes to approve the State's SIP revision request.

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. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Section 110 (a) (2) (a)–(k) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

(Sections 110, 301, Clean Air Act, amended (42 U.S.C. 7410, 7601))

Dated: November 18, 1980.

Charles S. Warren,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 80-38935 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 401

[WH-FRL 1626-3]

Modification of Effluent Limitations Guidelines and Standards for pH Values for Point Sources That Continuously Monitor Their Effluent

Correction

In FR Doc. 80-38082, appearing at page 81180 in the issue for Tuesday, December 9, 1980, the telephone number in the sixth line of the second column should read, "755-3624".

BILLING CODE 6560-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1601

Planning, Programming and Budgeting; Land Use Planning Amendments

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking amends the Bureau of Land Management's land use planning regulations in two areas. First, the amendment clarifies the requirement that the plans prepared under these regulations are to be consistent with those of State and local governments. Second, the amendment changes the procedures for designating and managing areas of critical environmental concern. These changes are needed to make the existing regulations consistent with current policy.

DATE: Comments by February 17, 1981.

ADDRESS: Comments should be sent to: Director (650), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240. Comments will be available for public review in room 5555 of the above address during business hours (7:45 to 4:15 p.m.) on regular work days.

FOR FURTHER INFORMATION CONTACT: Robert A. Jones, (202) 343-5682; or Robert C. Bruce, (202) 343.8735.

SUPPLEMENTARY INFORMATION: A little over a year ago, a final rulemaking formally establishing the land use planning program provided for in the Federal Land Policy and Management Act for the Bureau of Land Management was published. During that year, changes have occurred that necessitate amending the existing regulations, especially in two areas. This proposed rulemaking will make those changes.

The first change was brought about by discussions with the public about clarification of the consistency requirements in the regulations. Section 1601.4 provides for resource management plans developed under the regulations to be consistent with officially approved and adopted resource-related plans of State and local governments. Some members of the public expressed the opinion that the final rulemaking did not fully carry out the requirements of section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) as they relate to consistency with State and local resource-related plans. This proposed rulemaking amends the regulations to address the questions raised and clarify the issue.

In the preamble to the final rulemaking on land use planning, we indicated that if the public comments on the draft policy and guidelines for the designation and management of areas of critical environmental concern (ACEC) resulted in any changes to those reflected in the final rulemaking, those changes would be proposed as an amendment to the regulations. The ACEC guidelines have been changed as a result of the comments of the public and this proposed amendment makes the necessary amendments to bring the planning regulations into conformance with the final ACEC guidelines.

Finally, a few minor editorial changes have been made to correct the regulations.

The principal author of this proposed rulemaking is Robert A. Jones, Office of Planning, Inventory and Environmental Coordination, assisted by the staff of the Office of Legislation and Regulatory Management, both of the Bureau of Land Management.

It is hereby determined that the publication of this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C), is required.

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

Under the authority of sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711 and 1712), it is proposed to amend Part 1601, Subchapter A, Chapter II, Title 43 of the Code of Federal Regulations as set forth below:

1. Section 1601.0-5 is amended by inserting a new paragraph (i) and renumbering existing paragraphs (i) through (p) as (j) through (q) as follows:

§ 1601.0-5 Definitions.

* * * * *

(i) "Officially approved and adopted resource-related plans" means plans prepared and approved under State enabling legislation for planning, and in accordance with the provisions of such legislation.

* * * * *

2. Section 1601.4-1(c)(1) is revised to read as follows:

§ 1601.4–1 Coordination by the State Director.

* * * * *

(c) * * *

(1) Ensure that it is consistent, to the extent required by § 1601.4–3 of this title, with existing officially adopted and approved resource-related policies, plans or programs of other Federal agencies, State agencies and Indian tribes, and any local governments that may be affected.

* * * * *

3. Section 1601.4–2(c) is revised to read as follows:

§ 1601.4–2 Coordination by the District Manager.

* * * * *

(c) Resource management plans shall be coordinated with other Federal agencies, State and local governments and Indian tribes. The plans shall be made consistent with officially approved and adopted resource-related policies, plans and programs of other Federal agencies, State and local governments, and Indian tribes as prescribed in § 1601.4–3 of this title.

* * * * *

4. Paragraphs (a), (b) and (c) of § 1601.4–3 are revised as follows:

§ 1601.4–3 Consistency requirements.

(a) Guidance and resource management plans shall be consistent with officially approved or adopted resource-related plans, and the policies and programs contained therein, of other Federal agencies, State and local governments and Indian tribes, so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal law and regulations applicable to public lands, including Federal and State pollution control laws as implemented by applicable Federal and State air, water, noise and other pollution standards or implementation plans.

(b) In the absence of officially approved or adopted resource-related plans of other Federal agencies, State and local governments and Indian tribes, guidance and resource management plans shall, to the extent practical, be consistent with officially approved and adopted resource-related policies and programs of other Federal agencies, State and local governments and Indian tribes so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal law and regulations applicable to public lands, including Federal and State pollution control laws as implemented by applicable Federal and State air, water, noise and other pollution standards or implementation plans.

(c) State Directors and District Managers shall, to the extent practical, keep apprised of State and local governmental and Indian tribal policies, plans and programs, but they shall not be accountable for ensuring consistency if they have not been notified, in writing, by State and local governments and Indian tribes of an apparent inconsistency.

* * * * *

5. Section 1601.5–4(b) is revised as follows:

§ 1601.5–4 Analysis of the management situation.

* * * * *

(b) In all cases, the inventory data shall be analyzed to determine whether there are areas containing resources, values, systems or processes or hazards worthy of nomination and further consideration for designation as an ACEC. In order to be considered a potential ACEC, both of the following criteria shall be met:

(1) *Relevance.* There shall be present a historic, cultural or scenic value; a fish or wildlife resource or other natural system or process; or natural hazard.

(2) *Importance.* The above described value, resource, system, process or hazard shall be important. This generally requires qualities of more-than-local significance and special worth, consequence, meaning, distinctiveness or cause for concern, especially when compared to any like or similar resources. A natural hazard can be important if it is a significant threat to human life or property.

5. Section 1601.5–5 is revised to read as follows:

§ 1601.5–5 Formulation of alternatives.

Several complete, reasonable resource management alternatives shall be prepared for the resource area. One shall be for no action which means continuaiton of present levels or systems of resource use. The other alternatives shall provide a range of choices from those favoring resource protection to those favoring resource production. They shall reflect the variety of opinion and guidance applicable to the resource area. Areas identified as potential ACEC's shall be addressed in at least one of the alternatives. The total number of alternatives shall be limited to a manageable number for presentation and analysis by treating all reasonable variations as subalternatives. The plan shall note any alternatives identified and eliminated from detailed study and shall briefly discuss the reasons for their elimination.

7. Section 1601.6–1(b), (c) and (d)(2)(v) are revised to read as follows:

§ 1601.6–1 Resource management plan approval and administrative review.

* * * * *

(b) If the State Director considers an environmental value, resource, system or process within an area being proposed for ACEC designation to be of national or international significance, the State Director shall so advise the Director and provide reasons. If the Director makes such a finding, the Director may concur in the proposed designation. The Director may request the concurrence of the Secretary of the Interior in the designation of an ACEC involving a resource found to be of national or international significance. Subsequently, no plan, amendment or revision that adversely affects the ACEC can be made without the concurrence of all officials who concurred in the original designation.

(c) Upon receipt of concurrence from the State Director (or Director or Secretary when appropriate in the case of ACEC's), and no earlier then 30 days after the State Director files the final environmental impact statement, and subsequent to final aciton on any protest that may be filed, the District Manager shall approve the plan. Approval of the plan also constitutes formal designation of any recommended ACEC's involved, and places the special management requirements for each in effect. Approval shall be withheld on any portion of a plan or amendment being protested until final action has been completed on such protest. Before such approval is given, there shall be public notice and opportunity for public comment on any significant change made to the proposed plan. The approval shall be documented in a concise public record of the decision, meeting the requirements of regulations for the National Environmental Policy Act (40 CFR 1505.2).

(d) * * *

(1) * * *

(2) * * *

(v) A concise statement explaining why the District Manager's decision is wrong.

* * * * *

§ 1601.6–3 [Amended]

8. Sections 1601.6–3(b)(1) and (2) are amended by inserting the words "or secretary" after the word "Director" where it occurs.

§ 1601.6–7 [Removed]

9. Section 1601.6–7 is deleted in its entirety.

10. Section 1601.7–3(e)(1) is revised as follows:

§ 1601.7–3 Plan and environmental impact statement document.

* * * * *

(e) * * *

(1) An identification of each designated ACEC, including the name, purpose and objective of designation, a description of environmental resources or hazards involved together with an evaluation of their relevance, importance and their special management requirements.

* * * * *

Daniel P. Beard,

Acting Assitant Secretary of the Interior.

December 9, 1980.

[FR Doc. 80–38940 Filed 12–15–80; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Parts 206 and 233

Aid to Families With Dependent Children; Incentive for AFDC Recipients To Report Earned Income; Decision To Develop Regulations

AGENCY: Social Security Administration, HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration plans publication of proposed regulations to implement section 302 of Pub. L. 96–272 which was enacted on June 17, 1980. Section 302 was effective on the date of enactment. The regulations will provide that the earned income disregard will not be applied to any earned income which the recipient failed without good cause to report timely to the State agency.

The proposed regulations will amend 45 CFR 206.10 and 233.20.

The Department of Health and Human Services has classified the proposed regulations as policy significant.

FOR FURTHER INFORMATION CONTACT: Mrs. Constance Katz or Mr. Roy Simon, 2100 2nd Street, S.W., Washington, D.C. 20024 Telephone: (202) 245–2021.

Dated: November 13, 1980.

Approved:

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80–39028 Filed 12–15–80; 8:45 am]

BILLING CODE 4110–07–M

45 CFR Part 233

Aid to Families With Dependent Children; Proration of Shelter, Utilities, and Similar Expenses for AFDC Children Living With Ineligible Relatives; Decision To Develop Regulations

AGENCY: Social Security Administration, HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration plans publication of proposed regulations to implement section 303 of Pub. L. 96–272, enacted June 17, 1980. Section 303 was effective on the day of enactment. The regulations will provide that a State may prorate the shelter, utilities, and similar needs of specified assistance units living with closely related family members who are ineligible for AFDC. They will also specify that a State will be permitted to prorate only if the total income of the closely related family members and assistance unit members equals or exceeds the State's AFDC need standard for an AFDC assistance unit of comparable size. If a State chooses to prorate, the rules will specify the formula the State must use.

The proposed regulations will amend 45 CFR 233.20 and 233.90.

The Department of Health and Human Services has classified the proposed regulations as policy significant.

FOR FURTHER INFORMATION CONTACT: Mrs. Constance Katz or Mr. Roy A Simon, Trans Point Building, 2100 2nd Street, S.W., Washington, D.C. 20024, telephone (202) 245–2021.

Dated: November 13, 1980.

Approved:

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80–39029 Filed 12–15–80; 8:45 am]

BILLING CODE 4110–07–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Materials Transportation Bureau

Office of Hazardous Materials Regulation

49 CFR Part 172

[Docket No. HM–166F; Advance Notice]

Limited Quantities of Radioactive Materials; Correction

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: This document corrects the comment period date contained in the advance notice of proposed rulemaking covering regulatory requirements applicable to the transportation of limited quantities of radioactive materials which were published on December 8, 1980 (45 FR 80843). The action is necessary to correct the date from March 13, 1980 to March 13, 1981.

DATE: Comments must be received on or before March 13, 1981.

ADDRESS: Send comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590 (202–426–3148). Comments should identify the docket and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday thru Friday.

FOR FURTHER INFORMATION CONTACT: Richard R. Rawl, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–2311).

Issued in Washington, D.C. on December 10, 1980.

Joseph T. Horning,

Acting Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80–39146 Filed 12–15–80; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Trawl Fisheries and Herring-Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific; Preliminary Fishery Management Plan Amendment; Proposed Regulations and Request for Comments

Correction

In FR Doc. 80-38342, appearing at page 79126 in the issue of Friday, November 28, 1980, the following changes should be made:

1. The heading of the second column of Table III on page 79127, third column, should read, "DAH".

2. The first entry in the last column of Table III should read, "1,030,450".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 45, No. 243
Tuesday, December 16, 1980

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Northern Cheyenne Indian Tribe in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Northern Cheyenne Indian Tribe in Montana has been materially increased and become acute because of severe and prolonged drought substantially reducing range forage and hay production, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Northern Cheyenne Indian Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 15, 1981, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on December 5, 1980.

Donald L. Gillis,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-38690 Filed 12-15-80; 8:45 am]

BILLING CODE 3410-05-M

Feed Grain Donations for the Rosebud Sioux Indian Tribe in South Dakota

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Rosebud Sioux Indian Tribe in South Dakota has been materially increased and become acute because of severe and prolonged drought substantially reducing range forage and hay production, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designed for Indian use and is utilized by members of the Rosebud Sioux Indian Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be an acute distress area and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 1, 1981, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on December 5, 1980.

Donald L. Gillis,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-38703 Filed 12-15-80; 8:45am]

BILLING CODE 3410-05-M

Forest Service

Timber Export and Substitution Restrictions; Request for Comments

Notice is hereby given that the Forest Service, USDA, has received a request that unprocessed timber in the Pacific Northwest be found surplus to domestic needs. The Secretary of Agriculture is authorized to make such a finding after a public hearing (36 CFR 223.10). Comments are hereby solicited as to whether a public hearing should be scheduled to determine whether Pacific yew is surplus to domestic needs.

Comments should be submitted not later than January 14, 1981 to: R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

Dated: December 5, 1980.

R. Max Peterson,

Chief.

[FR Doc. 80-38870 Filed 12-15-80; 8:45am]

BILLING CODE 3410-11-M

Forest Land and Resource Management Plan for the Black Hills National Forest, South Dakota and Wyoming; Revised Notice of Intent To Prepare an Environmental Impact Statement

A notice of intent to prepare an environmental impact statement for the Forest Land and Resource Management Plan (Forest Plan) for the Black Hills National Forest was published in the **Federal Register**, Volume 44, No. 80, p. 24117, April 24, 1979.

The estimated dates for transmitting the draft and final environmental impact statements to the Environmental Protection Agency and the public have been postponed. The draft environmental impact statement is now expected in June 1981, and the final environmental impact statement is proposed for release in March 1982.

The work plan for completing the Forest Plan is available for public review at the Forest Supervisor's Office, Black Hills National Forest, P.O. Box 792, Custer, South Dakota 57730, telephone (605) 673-2251.

The planning action documentation for public issues, management concerns, and management opportunities; planning criteria; data bases; and,

analysis of the management situation are currently scheduled to be available for public review around December 1980.

Documentation for alternatives, effects of alternatives, and evaluation of alternatives will be available for public review as part of the draft environmental impact statement.

Please contact James R. Mathers, Forest Supervisor, Black Hills National Forest, P.O. Box 792, Custer, South Dakota 57730, telephone (605) 673–2251, for further information and any adjustments in the scheduled availability of planning action documentation.

Dated December 4, 1980.

S. H. Hanks,

Acting Regional Forester.

[FR Doc. 80-38956 Filed 12-15-80; 8:45 am]

BILLING CODE 3410-11-M

ARMS CONTROL AND DISARMAMENT AGENCY

Privacy Act of 1974; Proposed New System of Records

AGENCY: U.S. Arms Control and Disarmament Agency.

ACTION: Notification of proposed new system of records.

SUMMARY: The U.S. Arms Control and Disarmament Agency (ACDA) proposes to create a new system of records identified as ACDA–17, ACDA Integrated Retrieval System-ACDA, a description of which is being published for public comment. The purpose of this proposed new system of records is to establish a quick, effective, Agency-wide, computer assisted, system to identify, locate, and retrieve important documents of each of the bureaus and offices in the Agency.

DATES: This system shall become effective as proposed on January 15, 1981, of this notice unless comments are received on or before that date which result in a contrary or changed determination.

ADDRESS: Send comments to: Office of the General Counsel, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond O. Waters, Office of the General Counsel, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451 (202–632–0760).

SUPPLEMENTARY INFORMATION: This new system of records will be called the ACDA Integrated Retrieval System (AIRS) and will involve a computer index of documents which will include descriptive data on each document, thus enabling ACDA employees and a limited number of other individuals with a need for access to the AIRS index to identify, locate, and retrieve documents. The documents themselves will not be a part of the system. Copies of documents must still be obtained from the cognizant bureau or office.

The system of records will contain the names of individuals who originate, hold, are working on, have been assigned action on, or are responsible for the documents, as well as names of individuals who may have been participants in negotiations, diplomatic or interagency meetings reported on in the documents. Also names of authors of certain published works and public documents on arms control matters. Lists of documents will be retrievable by names of individuals, for example: by name of individuals working on or assigned action on documents; or by name of individuals participating in negotiations, diplomatic or interagency meetings. Other than the use of individual names in the manner described above, the system of records will contain no personal information about individuals.

The Agency has submitted a report concerning this proposed new system of records pursuant to instructions contained in Office of Management and Budget Circular No. A–108, Transmittal Memorandum No. 1, which provides supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974, 5 U.S.C. 552a(o).

The purpose of this document, in accordance with the requirements of the Privacy Act, 5 U.S.C. 552a(e)(4) and (11), is to give notice of a proposed new system of records and to provide an opportunity for interested persons to comment upon the proposal.

The routine uses of this proposed new system of records will be to identify, locate, and retrieve documents. Additionally, standard routine uses applicable to all or almost all Agency systems of records will be made applicable to this new system of records for the purposes set forth in such routine uses. In order to save space and avoid duplication, ACDA designates routine uses which apply to more than one system of records in a "Prefatory Statement of Routine Uses" which is published as a preface to and part of the Agency's systems of records when those systems are published in their entirety. The systems of records to which each of these routine uses applies are indicated after that routine use, and by reference, in the description of routine uses which appears in the description of each systems of records. The full text of the "Prefatory Statement of Routine Uses", amended so as to reflect this proposed new system of records, is set forth at the end of this document.

Pursuant to 5 U.S.C. 552a(e) (4) and (11), the proposed new system of records and the routine uses of the proposed new system of records are hereby set out below for public comment. Interested persons are invited to submit written data, views, or arguments with respect to the system or the routine uses, in duplicate, to the Office of the General Counsel, United States Arms Control and Disarmament Agency, Washington, D.C. 20451, on or before January 15, 1981.

James T. Hackett,

Administrative Director.

ACDA–17

SYSTEM NAME:

ACDA Integrated Retrieval System.

SYSTEM LOCATION:

Agency Headquarters, Department of State Building, 320 21st Street N.W., Washington, D.C., 20451.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

ACDA employees, former ACDA employees, other U.S. government employees, and individuals who originate, hold, are working on, have been assigned action on, or are responsible for important documents. Individuals who participated in negotiations, diplomatic or interagency meetings and whose names appear in documents reporting on such activities. Authors of published works and public documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

An index of important documents of all ACDA bureaus and offices and of certain published works and public documents on arms control matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2581.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Available to ACDA employees. Other U.S. government employees, and a limited number of other individuals with a need to know may be allowed access on a case by case basis. Access will be in order to: identify, locate, and retrieve important documents; obtain information as to individuals who originate, hold, are working on, have

been assigned action on, or are responsible for important documents; obtain information as to individual participants in negotiations, diplomatic or interagency meetings.

These records may be used to disclose information to any source seeking information in order to identify, locate, or retrieve documents indexed in the system.

These records may also be used to disclose information to any source from which additional information is requested in the course of identifying, locating, or retrieving documents indexed in the system.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, 3, and 4 apply to, and are incorporated by reference into, this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer disk files and tape.

RETRIEVABILITY:

Indexed by several data elements, including last name of individuals who originate, hold, are working on, have been assigned action on, or are responsible for documents. Also by last name of individuals who participated in negotiations, diplomatic or interagency meetings, and whose names appear in documents reporting on such activities.

SAFEGUARDS:

Access limited to ACDA employees. Other government employees, and a limited number of other individuals with a need to know may be allowed access on a case by case basis. Additionally, familiarity with passwords and their relationships will be needed to operate the system. Passwords will be frequently changed. The computer is in a locked, safeguarded area in a building with twenty-four hour security.

RETENTION AND DISPOSAL:

These records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operation Analysis Office, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451.

NOTIFICATION PROCEDURE:

Privacy Act Officer, Room 5534.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Information in this system of records will be obtained by indexers from a wide selection of official documents, reports of negotiations, memoranda of conversations, internal memoranda, cables, published works, and public documents.

Prefatory Statement of Routine Uses

The following uses apply to, and are incorporated by reference into, each system of records as indicated in the parenthesis which follows each routine use:

1. Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. (All ACDA systems of records)

2. A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit. (All ACDA systems of records)

3. A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA. (All ACDA systems of records)

4. In the event that these records indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (ACDA systems of records—numbers 1, 2, 3, 5, 6, 8, 9, 13, 14, 15, 16, 17)

5. A record from this system of records may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (ACDA systems of records—numbers 1, 2, 3, 5, 6, 8, 9, 13, 14, 15, 16)

6. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (ACDA systems of records—numbers 1, 2, 3, 5, 6, 8, 9, 13, 14, 15, 16)

7. A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. (ACDA systems of records—numbers 1, 3, 5, 6, 8, 13, 14, 16)

8. A record from this system or records may be disclosed to the Office of Personnel Management in accordance with that agency's responsibility for evaluation and oversight of Federal personnel management. (ACDA systems of records—numbers 1, 2, 3, 8, 13, 14, 16)

9. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that circular. (ACDA systems of records—numbers 1, 3, 8, 13, 14, 15, 16)

[FR Doc. 80-39004 Filed 12-15-80; 8:45 am]
BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Docket No. 39018]

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

December 5, 1980.

The due date for answers, conforming applications (See, 14 CFR 302.1701 *et seq.*), or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

(Weekly listing from the weekly list of applications filed will follow.)

Subpart Q Applications

The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket number	Description
12-3-80	39018	Aerolineas El Salvador, S.A., c/o William C. Burt, Koteen & Burt, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Aerolineas El Salvador, S.A. pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations, requests an amendment of the foreign air carrier permit issued pursuant to Order 80-6-59, authorizing it to engage in the foreign air transportation of persons between Miami, Florida, and a point or points in El Salvador.

Answers may be filed by December 31, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-39001 Filed 12-15-80; 8:45 pm]

BILLING CODE 6320-01-M

[Docket 38862; Order 80-12-37]

American Airlines, Inc.; Additional Points Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (80-12-37).

SUMMARY: The Board is proposing to award air route authority at Amarillo, Baton Rouge, Birmingham, Boise, Charleston, S.C., Columbia, S.C., Corpus Christi, Jackson, Miss., Lubbock, Midland-Odessa, Santa Barbara, and Shreveport, to American Airlines under expedited show-cause procedures.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by January 22, 1981, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

ADDRESES: Objections to the issuance of a final order should be filed in Docket 38862, which we have entitled the *American Airlines, Inc. Additional Points Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on American Airlines; the mayor and airport manager of each city to which the pleading refers; and the state aeronautical commission of the state in which such city is situated.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation; Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C 20428, (202) 673-5198

SUPPLEMENTARY INFORMATION: The complete text of Order 80-12-37 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C.20428. Persons outside the metropolitan area may send a postcard request for Order 80-12-37 to that address.

By Bureau of Domestic Aviation.

Phyllis T. Kaylor,

Secretary.

December 9, 1980.

[FR Doc. 80-39002 Filed 12-15-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38755; Order 80-12-55]

Pacific Southwest Airlines and Air California; Applications for Deletion of Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80-12-55 applications of Pacific Southwest Airlines and Air California under Section 401(G) for deletion of Lake Tahoe, California as a named point on their certificates of public convenience and necessity; Dockets 38755 and 38761.

SUMMARY: The Board is proposing to grant the requests made by PSA and Air Cal for deletion of Lake Tahoe, Cal. from their certificates. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below no later than December 25, 1980, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 38755, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: John Brennan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6067.

SUPPLEMENTARY INFORMATION: Objections should be served upon Pacific Southwest Airlines; Air California; the California Tahoe Regional Planning Commission; the mayors and airport managers of Lake Tahoe, Los Angeles, Hollywood/Burbank, San Diego, San Francisco and San Jose; and the California Public Utilities Commission. The complete text of Order 80-12-55 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a post card request for Order 80-12-55 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, December 11, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-39003 Filed 12-15-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

New Jersey Advisory Committee; Cancelled Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the New Jersey Advisory Committee to the Commission originally scheduled for December 15, 1980, at Newark, New Jersey, has been cancelled.

For additional information, please contact the Chairperson, Mr. Clyde C. Allen, 62 Sheridan Avenue, Plainfield, New Jersey 07060, (212) 572-7577, or the Eastern Regional Office, 26 Federal Office Building, New York, New York 10007, (212) 264-0543.

Dated at Washington, D.C., December 9, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-38991 Filed 12-15-80; 8:45 am]

BILLING CODE 6335-01-M

New Jersey Advisory Committee; Changed Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the New Jersey Advisory Committee to the Commission originally scheduled for December 15, 1980, at the P. J. Rodino Building,

Newark, New Jersey, (FR Doc. 80–37692 on page 80324) has been changed.

The meeting now will be held at the Ramada Inn, School House Lane, New Brunswick, New Jersey, on December 18, 1980, beginning at 6:30 p.m., and ending at 10:00 p.m.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Clyde C. Allen, 62 Sheridan Avenue, Plainfield, New Jersey, 07060 (212) 572–7577 or the Eastern Regional Office, 26 Federal Office Building, New York, N.Y. 10007, (212) 264–0543.

Dated at Washington, D.C., December 9, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–38992 Filed 12–15–80; 8:45 am]

BILLING CODE 6335–01–M

New Jersey Advisory Committee; Press Conference

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a press conference will be held on January 8, 1981, beginning at 10:00 a.m., and ending at 12:00 p.m., at the Peter Rodino Building, Newark, New Jersey. The topic will be domestic violence.

Persons desiring additional information should contact the chairperson, Mr. Clyde C. Allen, 62 Sheridan Avenue, Plainfield, New Jersey, 07060 (212) 572–7577 or the Eastern Regional Office, 26 Federal Office Building, Room 1639, New York, N.Y. 10007, (212) 264–0400.

The press conference will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 10, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–38990 Filed 12–15–80; 8:45 am]

BILLING CODE 6335–01–M

New York Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the New York Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 6:30 p.m., on January 28, 1981, at the Phelps Stokes Fund, 10 East 87th Street, New York, NY 10028. The purpose of the meeting is to discuss coming projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Hon. Franklin H. Williams, Phelps Stokes Fund, 10 E. 87th Street, New York, NY 10028 (212) 427–8100, or the Eastern Regional Office, 26 Federal Office Building, Room 1639, New York, N.Y. 10007, (212) 264–0543.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 9, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–38993 Filed 12–15–80; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S–682]

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Notice of Application by Gulf Oil Corporation

Notice is herby given that an application has been filed by Gulf Oil Corporation (Gulf) for Gulf's 262,376 deadweight ton tanker, AMERICAN SPIRIT, to carry oil in the Alaskan oil trade. The vessel, which was built with construction-differential subsidy, would operate between Valdez, Alaska and the U.S. Gulf, via Cape Horn, under charter to Exxon Company, U.S.A. (Exxon) for a period of not more than six months. Gulf anticipates that two voyages could be made within this time and that the first voyage would commence at Valdez on or about January 6, 1981.

Exxon has advised Gulf that the AMERICAN SPIRIT will be needed to take the place of a CDS vessel whose charter to Exxon is shortly to expire. Exxon further advised that its lifting requirements will be exceptionally critical in January 1981 when one of its own vessels must be removed from the Alaskan oil trade for dry docking.

Gulf states that to the best of its knowledge and that of Exxon no suitable Jones Act tonnage is available in early January to provide the full shipping capacity Exxon requires during the requested six-month period.

The domestic movement requested by Gulf does not coincide with either the Valdez/U.S. West coast or Valdez/Panama Canal trades specifically covered in 46 CFR 250. Consequently, publication of this Notice is not required. Nevertheless an opportunity is being provided for interested parties to comment on Gulf's application.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration, Room 3099–B, Department of Commerce Building, 14th and E Streets, NW, Washington, D.C. 20230.

Any person, firm, or corporation who desires to protest the application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received within five working days after the date of publication of this Notice in the **Federal Register.** If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidy (CDS))

By Order of the Assistant Secretary for Maritime Affairs.

Dated: December 11, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80–38859 Filed 12–15–80; 8:45 am]

BILLING CODE 3510–15–M

National Bureau of Standards

Federal Information Processing Standards 60–1, 61, 62, 63 Technical Verification Guidance

Under the provisions of Public Law 89–306 (79 Stat. 1127; 40 USC 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform automatic data processing standards. On February 16, 1979, notice was given in the **Federal Register** (44 FR 10098–10101) announcing that the Secretary of Commerce had approved three input/output (I/O) Federal Information Processing Standards (FIPS): (1) I/O Channel Interface, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems, designated Federal Information Processing Standards Publication (FIPS PUB) 60 (which had been redesignated 60–1), FIPS PUB 61, and FIPS PUB 62,

respectively. On August 27, 1979, notice was given in the **Federal Register** (44 FR 50078–50079) announcing that the Secretary had approved a fourth I/O channel level interface standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUB 63.

These standards were the subject of corrections and revisions announced in the **Federal Register** on August 27, 1979 (44 FR 50079–50080), August 31, 1979 (44 FR 51294) and December 3, 1979 (44 FR 69317).

Each of those standards includes provision for verification of conformance to be made by demonstration or other means acceptable to the Government prior to acceptance of equipment having an interface required to conform. Accordingly, on December 11, 1979, and February 27, 1980, the National Bureau of Standards (NBS) announced in the **Federal Register** (44 FR 71444–71445 and 45 FR 12862) the establishment of a verification service for those standards which is expected to result in equipment being place on a list for use in Federal automatic data processing procurement. NBS maintains this list and distributes it to all Federal agencies and interested parties upon request.

Following the December 11, 1979, and February 27, 1980, notices, NBS proposed in a notice published on June 25, 1980 (45 FR 42783–42784), that the applicability section of each of the standards referenced above be revised so as to (1) identify explicitly NBS as the source for specifying the verification procedures and techniques to be employed with those standards, (2) conduct or arrange to have conducted verification following those procedures and techniques, and (3) issue related technical guidance concerning technical interface implementation appproaches that will meet the verification requirement. Accordingly, it was proposed that the last paragraph of the applicability section of the above cited standards have appended to it the following language:

"The Director of the National Bureau of Standards shall, through publication of notices in the **Federal Register**, specify the verification procedures and techniques to be employed and shall conduct or arrange to have conducted this required verification. The Director shall provide, upon request or when he otherwise determines it to be necessary and appropriate, guidance as to whether specific technical interface implementation approaches will meet the verification requirement. Such guidance shall be published in summary form through notices in the **Federal Register**, specifying the manner in which persons may obtain copies of the full guidance provided."

This is the third notice providing specific guidance concerning technical interface implementation approaches. The first such notice was published in the **Federal Register** on August 13, 1980 (45 FR 53856–53857) and set out the paragraph numbering system that would be followed in listing and responding to questions in that first notice and subsequent notices. The second notice was published in the **Federal Register** on October 17, 1980 (45 FR 68989–68990).

FIPS 60–1, 61, 62, and 63 are intended to achieve full plug-to-plug interchangeability of peripheral components. This general intent is the basis for this guidance.

3.1 Some subsystems and channels do not implement the 'clock out' function described in FIPS 60–1. This does not affect interchangeability when the subsystems which do not implement 'clock out' will attach to channels which do implement 'clock' out' and the channels which do not implement 'clock out' will attach to subsytems which do implement 'clock out.' Is it necessary to implement 'clock out' to be verified in conformance to FIPs 60–1?

No. The interchangeability goals of FIPS 60–1 are satisfied as long as the 'clock out' signal line is not used for some other purpose. If 'clock out' is not used for another purpose, subsystems and channels which do or do not implement 'clock out' can be interconnected.

3.2 Some I/O channels check the response of control units to a disconnect indication and require that 'operational in' drop within some fixed time which is greater that 6 microseconds. This is done to detect a potential "hang condition " should the control unit not respond to interface disconnect.

This is not specified in FIPS 60–1. Is it necessary to eliminate this check for verification of conformance to FIPS 60–1?

No. This is an appropriate check for what otherwise might cause the channel to go into an undetected "hung" state while waiting for "operational in" to fall. This check should have a negligible affect upon interchangeability.

3.3 Article 645–3 of the 1978 National Electrical Code requires a disconnecting means which, "shall disconnect the ventilation system serving that room and the power to all electric equipment in the room except lighting, and shall be controlled from locations readily accessible to the operator and at designated exit doors from the data processing room" for data processing systems. This appears to eliminate the need for the Emergency Power Off (EPO) function of the Power Control Interface specified in FIPS 61. Is it necessary to implement the EPO function for verification of conformance to FIPS 61?

There are two considerations here: compatibility and safety. As long as the EPO lines are unused, it is possible to construct subsystems and Power Control Interfaces which do not implement EPO but which can be connected to Power Control Interfaces or subsystems which do. If the cited provisions of the referenced National Electrical Code are followed, the disconnect means accomplishes all the safety functions of EPO. Therefore, subsystems and computers which do not implement EPO may be verified with the qualification "EPO Not Implemented." Solicitations may, however, explicitly require implementation of the EPO feature where local building safety considerations require its use.

3.4 In some tape or disk subsystems, sense conditions not defined in FIPS 62 or 63 have been assigned to bits reserved for other purposes in FIPS 62 and 63. How does this affect verification?

To answer this question, it is necessary to consider the goal of these standards—operational interchangeability of disk and tape subsystems—and the effect assigning new conditions to an already used bit has upon interchangeability. Sense information is primarily used in two ways: by device driver software for error recovery, where it is possible, and for the isolation of faults within subsystems. The former falls within the intended scope of these FIPS, while the latter does not, since it is dependent upon he internal design of the subsystem.

Appendix A of FIPS 62 shows typical first level driver error recovery procedures for magnetic tape subsystems. Appropriate procedures are listed for various sense indications. For example, when Bus Out Check is set, the appropriate software error recovery procedure is to reissue the command. This bit (bit 2 of byte 0) can also be set for other conditions for which the appropriate error recovery procedure is also to reissue the command, while preserving software interchangeability. If, on the other hand, this bit were set for a condition for which the appropriate error recovery procedure was Backspace Record, Write Erase Gap, and then reissue the command, software compatibility would be affected. Thus, the former case would be acceptable, while the latter case would not.

The general rule is then that new conditions may be assigned to already used sense bits if, and only if, the appropriate first level device driver error recovery procedures are identical in both cases.

3.5 Some systems in their "native" mode do not contemplate as many as 256 addressable devices per I/O port. Neither their operating system (OS) software, their software to hardware I/O interface, nor their native I/O interface make provision for passing this large an address. If a user's existing software does not need nor could it use so large an address space, must a way be found to use all 256 possible I/O channel addresses through our adaptor to be verified to be in compliance with FIPS 60–1?

No. It is sufficient within the computer's operating system and internal program to I/O control interface to preserve the address space of the native I/O interface, so that application and system software "see" an I/O device address space only as large as that of the native system. For example, if the native interfaces only address 64 devices, then the combination of OS, program to I/O control interface, and I/O channel adaptor need only pass 64 device addresses to the channel.

However, as expressed in paragraph 1.4 of technical verification published in the **Federal Register** on August 13, 1980 (45 FR 53856–53857), this does not preclude the requirement for the standard I/O channel side of the adapter to deliver a full address byte to the interface and for conforming peripheral subsystems to accept a full byte of address information.

3.6 In order to enable peripheral subsystems to communicate with channels at high data rates over longer distances, many vendors have incorporated a feature known as "offset interlock" which permits the subsystem to transmit either data or an acknowledgement prior to actually receiving the normally required "go ahead" signal from the channel side of the interface. How does this affect verification?

There are a number of widely used high performance disk subsystems available which employ some variation of "offset interlock" to allow operation of the subsystem at high speeds and through long cables. In these subsystems, the acknowledgement of subsystem service requests by the channel may be delayed or "offset" beyond the time required by the data transfer rate requirements of the subsystem without causing an overrun or underrun condition at the subsystem. Although this delay or "offset" would appear to be a direct violation of the data transfer signal interlocks specified in FIPS 60–1, subsystems implementing offset interlock do operate in conformance to FIPS 60–1 interlock requirements when cable lengths are short. Moreover, an I/O channel cannot distinguish between a subsystem which uses offset interlock and one which does not, and no modifications are required by the I/O channel.

Keeping in mind the goal of FIPS 60–1, which is interchangeability of channels and subsystems, the use of offset interlock or similar techniques will not adversely affect verification provided that:

(a) Changes are not required to I/O channels for proper operation, and

(b) The subsystem has been demonstrated to operate properly with at least two different conforming I/O channels in the appropriate performance class.

Since there are several reasons, not related to offset interlock, why individual subsystems may not operate properly with particular I/O channels, the known existence of incompatible conforming I/O channels will not necessarily prevent verification of subsystems using offset interlock. However, subsystems employing some variation of offset interlock, which do not operate correctly with most of these I/O channels that have adequate bandwidth for them, will not be verified since they do not satisfy either the letter or the intent of FIPS 60–1.

3.7 If a Search ID Equal command transfers no ID bytes to the control unit (that is, has a transfer count of zero) and the control unit always responds with STATUS MODIFIER (indicating a valid compare), will verification for conformance to FIPS 63 be allowed?

Yes, such a response is consistent with FIPS 63.

3.8 The description for the Write Data command in paragraph 2.7.6 in FIPS 63 states that the Write Data command "Must be chained from a Search ID Equal or Search Key Equal command. Search commands must compare equal on all bytes transferred from the channel." Is this requirement satisfied if a Search ID Equal command with a transfer count of zero which always compares valid is chained to a Write Data command?

Yes, this will guarantee the proper positioning of the recording surface to a data area. Some means other than the search ID command must be used in this case to ensure that the correct record is written, but the search ID command will ensure positioning past the ID area of the record.

Because it is possible to respond fully to the foregoing questions in such a brief fashion, the National Bureau of Standards has decided not to avail itself of the opportunity to summarize the guidance provided for in the interim revision of FIPS PUBS 60–1 through 63. The guidance provided in response to questions 3.1 through 3.8 is, therefore, considered complete. Requests for additional FIPS 60–1 through 63 verification guidance should be addressed to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: FIPS 60–1 through 63 Verification Guidance.

Dated: December 10, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-38853 Filed 12-15-80; 8:45 am]

BILLING CODE 3510-13-M

Federal Information Processing Standards 60–1, 61, 62, 63; Editorial Changes

Correction

In FR Doc. 80–36820 appearing at page 78746 in the issue for Wednesday, November 26, 1980, make the following corrections:

(1) On page 78746, in the middle column, in the fourth paragraph, in the second line, "FIPS PUBS 60–1" should have read "FIPS PUB 60–1".

(2) On page 78746, in the third column, in the second paragraph, the last word of the paragraph should read "resistance". Also the period which ends the paragraph is not part of the quoted material so should not appear inside the quotation marks.

(3) On the same page and column, in the ninth paragraph, in the last line, "Channel Switch 1" should have read "Channel Switch ①".

BILLING CODE 1505-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Level of Restraint for Certain Man-Made Fiber Yarns From Thailand

December 11, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by 200,000 square yards equivalent the designated consultation level of 2 million square yards equivalent (487,805 pounds) established for other man-made fiber yarns, wholly of non-cellulosic filament,

in Category 604, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1980. The new twelve-month level will be 536,585 pounds.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506))

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand provides consultation levels for certain categories of textile products, such as Category 604, which are not subject to specific ceilings and which may be adjusted upon agreement between the two governments. In talks with the Government of Thailand, the Government of the United States has agreed to increase the level for man-made fiber textile products in Category 604 by 200,000 square yards equivalent to 2,200,000 square yards equivalent (536,585 pounds).

EFFECTIVE DATE: December 17, 1980.

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

SUPPLEMENTARY INFORMATION: On December 27, 1979, there was published in the **Federal Register** (44 FR 76574) a letter dated December 20, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements establishing levels of restraint for certain categories of cotton and man-made fiber textile products, which may be entered into the United States for consumption or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980. The letter of December 20, 1979 was amended by a letter dated May 6, 1980 (45 FR 31772) to include a level of restraint for man-made fiber textile products in Category 604. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 604, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980, in excess of the increased level of 536,585 pounds.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 11, 1980.

Committee for the Implementation of Textle Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 20, 1979, from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980 of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in Thailand, in excess of designated levels of restraint.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 11, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 604, produced or manufactured in Thailand, in excess of 536,585 pounds.

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

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-38972 Filed 12-15-80; 8:45 am]

BILLING CODE 3510-25-M

Amending the Import Restraint Level for Certain Man-Made Fiber Textile Products from Taiwan

December 11, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Applying swing, carryover and carryforward, variously, to the levels of restraint established for man-made fiber textile products in Categories 633/634/635 (coats), 641 (woven blouses), and 648 (women's, girls' and infants' trousers), produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506)).

SUMMARY: The Bilateral Cotton, Wool and Man-Made fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan, provides, among other things, for percentage increases in certain categories during the agreement year (swing), for the carryover of shortfalls in certain categories from the previous agreement year, and for the borrowing of designated percentages of yardage from the succeeding year's level (carryforward) with the amounts used being deducted from that level during the succeeding agreement year. Under the terms of the bilateral agreement, as amended, the levels of restraint established for Categories 633/634/635, 641 and 648 are being increased.

EFFECTIVE DATE: December 11, 1980.

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

SUPPLEMENTARY INFORMATION: On December 28, 1979, there was published in the **Federal Register** (44 FR 76839) a letter dated December 21, 1979 from the Chairman of the Committee for the Implementaiton of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the

levels of restraint previously established for Categories 633/634/635, 641 and 648.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 11, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1979 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on December 17, 1980 and for the twelve-month period which began on January 1, 1980 and extends through December 31, 1980, to prohibit entry for consumption or withdrawal from warehouse for consumption of man-made fiber textile products in Categories 633/634/635, 641 and 648, produced or manufactured in Taiwan in excess of the following amended levels of restraint:

Category	Amended twelve-month level of restraint[1]
633/634/635	1,439,877 dozen of which not more than 945,489 dozen shall be in Categories 633/634 and not more than 706,236 dozen shall be in Category 635.
641	690,168 dozen.
648	3,118,964 dozen.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979.

The actions taken with respect to the authorities in Taiwan and with respect to man-made fiber textile products in Categories 633/634/635, 641 and 648 from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,
Arthur Garel,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-39060 Filed 12-15-80; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 80-C0005 and No. 80-C0006]

Emerson Electric Co., A. O. Smith Corporation, and Sears, Roebuck and Co. (80-C0005) and Emerson Electric Co. (80-C0006); Provisional Acceptance of Consent Agreements

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of consent agreements.

SUMMARY: The Commission, by a 4-1 vote (Commissioner Sloan dissenting and filing an opinion [1]) has provisionally accepted two consent agreements containing Orders offered by Emerson Electric Co., and by Emerson and its customers, A. O. Smith Corporation, and Sears, Roebuck and Co. In the agreements Emerson agrees (1) to take certain remedial action as to any liquid propane ("LP") gas water heater which contains a thermostat that was manufactured by Emerson's White-Rodgers Division between 1961 and 1980 and does not have an inlet gas filter; and (2) to pay $420,000 in settlement of claims under sections 15(b) or 19(a) (3) and (4) of the Consumer Product Safety Act (15 U.S.C. 2064(b), 2068(a) (3) and (4)).

The Commission will decide whether to finally accept these consent agreements and issue the Orders after it considers any comments it receives on the agreements.

The Commission invites comments on the consent agreements set forth below.

DATES: Any interested person may ask the Commission not to accept the agreements by filing a written request in the Office of the Secretary no later than close of business December 31, 1980.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Sandra Shimasaki, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207, (Telephone (301) 492-6608).

Dated: December 10, 1980.

Sheldon D. Butts,

Deputy Secretary, Consumer Product Safety Commission.

In the matter of Emerson Electric Co., a corporation; A. O. Smith Corporation, a corporation; and Sears, Roebuck and Co., a corporation, CPSC Docket No. 80-C0005. Consent agreement and order.

This document is comprised of a Consent Agreement and an Order. The Agreement is made by and between Emerson Electric Co., a corporation (hereafter "Emerson"), A. O. Smith Corporation, a corporation, and Sears, Roebuck and Co., a corporation (hereafter collectively "customers"), and the staff of the Consumer Product Safety Commission (hereafter "staff"). Attached to this Consent Agreement and incorporated in it by reference is an Order which Emerson and its customers and the staff agree to have the Consumer Product Safety Commission (hereafter "Commission") issue upon final acceptance of the Consent Agreement.

It is hereby agreed by and between Emerson and its customers, by their duly authorized officers, and counsel for the Commission that:

1. Emerson is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri with its office and principal place of businesss located at 8000 W. Florissant, St. Louis, Missouri 63136.

2. A. O. Smith Corporation (hereafter "A. O. Smith") is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 3533 North 27th St., Milwaukee, Wisconsin 53216.

3. Sears, Roebuck and Co. (hereafter "Sears") is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at Sears Tower, Chicago, Illinois 60684.

4. The Commission has jurisdiction over the subject matter of the Consent Agreement and Order and over Emerson and its customers under the Consumer Product Safety Act (hereafter "CPSA") [15 U.S.C. 2051 *et seq.*].

5. The Commission Order, attached hereto and incorporated by reference, is issued under Sections 15 (c), (d), and (e) of the CPSA [15 U.S.C. 2064 (c), (d), and (e)]. A violation of the Order is a prohibited act under Section 19(a)(5) of the CPSA [15 U.S.C. 2068(a)(5)]. Subject to the provisions of paragraph 8, the

[1] Commissioner Sloan has issued a dissenting opinion which is on file in the Office of the Secretary.

Order shall take effect upon its issuance by the Commission and its service on Emerson and its customers.

6. This Consent Agreement and Order apply to liquid propane ("LP") gas water heaters which contain thermostats that were manufactured by Emerson's White-Rodgers' Division between 1961 and 1980. White-Rodgers produced approximately 800,000 such thermostats, of which it believes approximately 600,000 are still in use. These thermostats bear the following part numbers: 3701, 3711, 3731, 3755U, 3761, 3761U, 3762U, 3771U, 3772U, 3774U and 3776U. LP gas water heaters which contain thermostats produced between 1961 and 1976 were manufactured by A.O. Smith and State Industries and sold by Sears and other firms. LP gas water heaters which contain thermostats produced between 1976 and 1980 have been manufactured by A.O. Smith, State Industries, W.L. Jackson Manufacturing Co. and Rheem Manufacturing Co. Such water heaters have been sold by Sears, Montgomery Ward & Co, Inc. and other firms. The 1961–1964 and post-1976 thermostats do not contain the pilot gas control knob present in the thermostats that were involved in the explosions described in paragraph 9 below and are being replaced to meet certain "state-of-the-art" standards embodied by the present White-Rodgers thermostat.

7. LP gas water heaters that contain the White-Rodgers thermostat models described in paragraph 6 are consumer products as that term is defined in Section 3(a)(1) of the CPSA [15 U.S.C. 2052(a)(1)].

8. This Consent Agreement and the accompanying Order will take effect only if and when the Commission finally accepts and adopts the Consent Agreement and Order entered into by Emerson and the staff in CPSC Docket No. 80–C0006. Should the Commission decide not to accept and adopt that Consent Agreement and Order, the instant Agreement and Order shall have no force and effect.

9. From 1968 through 1980, Sears and A.O. Smith LP gas water heaters containing White-Rodgers thermostats have been involved in 23 explosions resulting in 5 deaths and 16 serious injuries. Typically, it appeared that, during the life of the product, the thermostat pilot gas control knob became damaged and the safety valve was therefore blocked in the "open" position, allowing LP gas to escape. The current thermostat manufactured by White-Rodgers contains a knob and collar which are substantially more resistant to such damage than prior model thermostats. In addition, the current thermostat contains a gas inlet filter, which should prevent the possibility that contaminants that might be contained in LP gas could interfere with the operation of the thermostat safety valve and thereby create a risk of explosion. For both these reasons, replacement of earlier thermostat models with the present model White-Rodgers thermostat should result in increased protection for LP gas water heater users.

10. The Commission staff and Emerson and its customers are entering into this Agreement and Order because they agree that it is in the public interest to minimize any possibility of injury from White-Rodgers thermostats used in LP gas water heaters as a result of damage to the thermostat pilot gas control knob during the life of the product. The Commission has not made and does not hereby make any determination that gas water heaters equipped with White-Rodgers thermostats manufactured between 1961 and 1980 contain a defect which creates a substantial risk of injury to the public. In particular, the Commission has not made and does not hereby make a preliminary hazard determination respecting LP gas water heaters incorporating White-Rodgers thermostats manufactured between 1964–1976, as set forth by the CPSC staff on May 14, 1980.

11. The Commission has no objection to any private arrangement among Emerson and its customers concerning the implementation, or the appropriate allocation of the costs, of the replacement program described in the attached Order. The Commission understands that Emerson and its customers have arranged among themselves, as a practical measure to facilitate execution of the program, that Emerson will carry out the implementation of the program on its own and its customers' behalf. The Commission also recognizes that Emerson and its customers may agree on an allocation of the costs of the implementation of the program that does not result in an equal allocation among Emerson and its customers. Emerson and its customers understand that no inference of an agreement leading to such an equal allocation shall arise by virtue of the execution of this Consent Agreement or by virture of any provision of the attached Order. However, Emerson and its customers are each responsible for the replacement program described in the attached Order.

12. The provisions of the Consent Agreement and Order shall apply to Emerson and its customers and to each of their respective officers, directors, agents, subsidiaries, employees, successors and assigns.

13. Emerson and its customers knowingly, voluntarily and completely waive any rights they may have in this matter: (1) to a complaint setting forth the staff's allegations; (2) to an administrative or judicial hearing and any other procedural steps; (3) to seek judicial review of, or otherwise challenge or contest, the validity of the attached Order; and (4) to a statement of findings of fact and conclusions of law by the Commission under Sections 15(c), (d) and (e) of the CPSA [15 U.S.C. 2064(c), (d) and (e)].

14. This Consent Agreement and Order substitute for a Complaint and resolve all issues that have arisen or could arise under Sections 15(c), (d), or (e) of the CPSA [15 U.S.C. 2064(c), (d), or (e)] with respect to the information which the Commission staff currently possesses concerning LP gas water heaters that contain the White-Rodgers thermostats described in paragraph 6 hereof, or with respect to any potential hazard associated with such heaters of which the Commission or its staff has been informed. Nothing herein shall preclude the Commission from taking any further action that it deems appropriate under the CPSA, based on any new information that is reported by Emerson and its customers or that it otherwise obtains, with respect to White-Rodgers thermostats that are incorporated into any appliance other than LP gas water heaters, including natural-gas fired water heaters, or with respect to any potential hazard associated with LP gas water heaters of which the Commission or its staff has not been informed.

15. Upon execution of this Agreement by Emerson and its customers and the Commission staff and provisional acceptance by the Commission, this Consent Agreement and Order will be placed on the public record, on the Commission's Public Calendar, and in the Federal Register. The Commission will then consider the Consent Agreement and Order pursuant to 16 CFR 115.20(b)(5).

16. Upon final Commission acceptance, the Commission will make the Consent Agreement and Order available for public viewing at the Office of the Secretary, Consumer Product Safety Commission, 1111–18th Street, N.W., Washington, D.C. 20207.

17. Emerson and its customers understand that it is the position of the commission that, after the attached Order has been issued by the Commission, the Order may be modified

or set aside pursuant to 16 C.F.R. 1025.58.

18. The signing of this Consent Agreement and Order does not constitute an admission by Emerson or its customers that a substantial product hazard or imminent hazard exists with respect to any gas water heaters containing White-Rodgers thermostats.

19. Emerson and its customers shall notify the Commission at least 30 days prior to any change in their business (such as incorporation, dissolution, assignment, sale, or declaration of bankruptcy) that results in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of the corporation, or any other change which might affect complicance obligations arising out of the Order. This notification obligation will cease in five years.

20. With the exception of the Consent Agreement and Order entered in CPSC Docket No. 80–C0006, no agreement, understanding, representation, or interpretation not contained in this Consent Agreement and Order may be used to vary or to contradict its terms, subject to the provisions of paragraph 11 above concerning any private agreement between Emerson and its customers regarding the implementation, or the allocation of the costs, of the replacement program required under the attached Order, and subject also to the provisions of paragraph 11 of that Order concerning the agreement between Emerson and the CPSC staff regarding Emerson's duty to file reports.

21. Withour prior notification to Emerson and its customers, the Commission and the CPSC staff may issue public statements based upon and limited to: (a) the provisions of this Consent Agreement and Order and the Consent Agreement and Order in Docket No. 80–C0006; (b) the applicable provisions of the CPSA or CPSC regulations; (c) the joint press release required under paragraph 12 of the attached Order; (d) the compliance reports required under paragraph 11 of that Order; and (e) written materials used in the implementation of the replacement program required under the Order. However, except for the categories of materials described above, the Commission and the CPSC staff may make public statements about gas water heaters containing White-Rodgers thermostats only after prior notice to and review by Emerson and its customers in accordance with the procedures prescribed by Section 6(b)(1) of the CPSA. Nothing in this paragraph or in this Agreement limits in any fashion any Commissioner from issuing and distributing any concurring of dissenting opinion.

Order

The staff of the Consumer Product Safety Commission ("staff") having entered into a Consent Agreement with Emerson Electric Co. ("Emerson") and A.O. Smith Corporation and Sears, Roebuck and Co. (collectively "customers") which provides for the performance of a replacement program pursuant to Sections 15(c), (d) and (e) of the Consumer Product Safety Act ("CPSA") [15 U.S.C. 2064(c), (d) and (e)], and the Consumer Product Safety Commission ("Commission") having approved the terms of the Consent Agreement, it is hereby ordered that:

1. The Commission understands that Emerson and its customers have arranged among themselves, as a practical measure to facilitate execution of the program required by this Order, that Emerson will carry out the implementation of the program on its own and its customers' behalf in accordance with paragraphs 11 and 20 of the accompanying Consent Agreement. However, Emerson and its customers are each responsible for the replacement program required by the Order.

2. As part of the program required under the Order, Emerson will install a new thermostat, free of charge, in any liquid propane ("LP") gas water heater which contains a thermostat that was manufactured by Emerson's White-Rodgers Division between 1961 and 1980 and does not have an inlet gas filter. The replacement thermostat which Emerson will install is the current production White-Rodgers filter model.

3. 1961–1980 White-Rodgers Thermostats which will be eligible for replacement under this Order are these that lack gas inlet filters and contain the following part numbers: 3701, 3711, 3731, 3755U, 3761, 3761U, 3762U, 3771U, 3772U, 3774U and 3776U. LP gas water heaters which include White-Rodgers thermostats produced between 1961 and 1976 have been manufactured or sold by A. O. Smith Corporation and Sears, Roebuck and Co. LP gas water heaters which contain White-Rodgers thermostats produced between 1976 and 1980 have been manufactured by A. O. Smith Corporation, State Industries, W. L. Jackson Manufacturing Co., and Rheem Manufacturing Co. Such water heaters have been sold by Sears, Montgomery Ward & Co., Inc. and other firms. The 1961–64 and post-1976 thermostats do not contain the pilot gas control knob present in thermostats that were involved in the explosions described in paragraph 9 of the attached Consent Agreement and are being replaced to meet certain "state-of-the-art" standards embodied by the present White-Rodgers thermostat.

4. To locate White-Rodgers thermostats eligible for replacement, Emerson will mail a notice to all known LP gas dealers in the United States. This notice will explain the thermostat replacement program and ask the dealer to send Emerson its customer mailing list as soon as possible. In addition, the notice will inform the dealer that Emerson will pay it an adequate service fee for locating a White-Rodgers thermostat eligible for replacement and an additional service fee for installing a new thermostat.

5. Emerson will make follow-up contacts with all LP gas dealers who do not furnish it with their customer mailing lists. During these follow-up contacts, Emerson will again ask the dealers for their cooperation in the replacement program and advise them that, if they do not provide a customer mailing list to Emerson, they could receive a subpoena or other form of compulsory process from the CPSC. Emerson will inform the CPSC staff of the identities of all LP gas dealers who fail to respond to its follow-up letter. Based on this information, the staff will take any further action which is appropriate, including recommending the issuance of subpoenas.

6. To inform LP gas users of the availability of replacement thermostats, Emerson will mail notices to (a) all persons identified by the mailing lists supplied by LP gas dealers and (b) all users of LP gas water heaters identified from other sources, including the records of water heater manufacturers. It is estimated that there are 15 million users of LP gas in the country. This notice will explain the thermostat replacement program and identify the White-Rodgers thermostats to which the program applies. The notice will also provide instructions for obtaining replacement thermostats. As part of these instructions, Emerson will establish a toll-free telephone number which LP gas users can call if they believe their water heaters contain a thermostat that is eligible for replacement. In its notice, Emerson will inform LP gas users that they can obtain replacement thermostats by calling the toll-free number, contacting LP gas dealers or, in appropriate cases, contacting the service departments of water heater manufacturers.

7. Emerson will take steps to assure that a qualified service representative promptly contacts all LP gas users who indicate that their gas water heaters may contain thermostats that are

eligible for replacement. If the service representative determines that the user has an LP gas water heater thermostat covered by Emerson's program, the service representative will replace that thermostat with the latest White-Rodgers model without any charge to the user. Emerson will provide appropriate installation instructions to service representatives who may be involved in replacing thermostats under its program. All service representatives who replace a White-Rodgers thermostat pursuant to the program will be required to fill out, and return to Emerson, a reply card which identifies the name and address of the water heater user, the brand name of the water heater, and the part number of the replaced White-Rodgers thermostat. Emerson will request that all replaced thermostats be returned to it for ultimate destruction.

8. All replacement thermostats which are installed pursuant to the program will bear a sticker warning water heater users against applying tools to the pilot gas control knob or otherwise hitting or damaging the knob. With Emerson's cooperation, Sears and A. O. Smith will also make available to participating service representatives lighting instructions and water heater manuals which describe the safe use and operation of the White-Rodgers' thermostats. These materials will be furnished to users of Sears and A. O. Smith water heaters who receive new thermostats under the replacement program.

9. Before implementation of any portion of the program, the CPSC staff will review the format and content of all notices and other written materials which Emerson has prepared as part of that program. Emerson will make any reasonable modifications in these materials which the CPSC staff requests.

10. Until further notice from the CPSC staff, Emerson and its customers will immediately notify the staff in writing of all reports of property damage and/or injuries and/or deaths which they receive that may be related to the pilot gas control knobs of White-Rodgers' thermostats used in natural gas water heaters or any appliance other than LP gas water heaters. Nothing in this Order relieves Emerson and its customers of any obligation which they may have under Section 15(b) of the CPSA [15 U.S.C. 2064(b)] to report information which they obtain in the future regarding White-Rodgers thermostats used in LP gas water heaters, either concerning damage to the pilot gas control knob or interference with the safety valve caused by contaminants in LP gas, or concerning any potential hazard of which the Commission or its staff has not been informed.

11. Emerson shall file reports with the Commission which fully and specifically detail its actions to comply with this Order. Its customers shall cooperate with Emerson in filing these reports and, if necessary, may be required to file reports of their own. The obligation to report shall continue until Emerson and its customers and the CPSC staff agree that the requirements of the Order are fulfilled.

The schedule for filing such reports, and the information that they contain, shall be determined by agreement between the CPSC staff and Emerson. The Commission may verify data contained in compliance reports provided by Emerson and conduct inspections of Emerson's establishments to ascertain compliance with this Order. All inspections will be carried out by a Commission employee with appropriate credentials, at a reasonable time and in a reasonable manner.

12. The CPSC and Emerson and its customers will issue a joint press release announcing the thermostat replacement program.

13. In the event of litigation involving compliance with the terms of the Order, the resolution of any issues raised will affect only the pertinent parts of the Order; the Consent Agreement may be used to interpret the terms of the Order; and the parties will be obligated by the judicially construed parts of the Consent Agreement and Order as if they were part of the original Consent Agreement and Order.

Signed as of this 30th day of November, 1980.

Emerson Electric Co.

Dated: December 3, 1980.

Charles Hansen,

Senior Vice President, Law Emerson Electric Co.

A. O. Smith Corporation.

Dated: December 3, 1980.

John R. Parker,

President A. O. Smith Corporation.

Sears, Roebuck and Co.

Dated: November 30, 1980.

Philp M. Knox, Jr.,

Vice President, Sears, Roebuck and Co.

Dated: December 4, 1980.

Ronald E. Bogard.

Dated: December 4, 1980.

Melvin I. Karamer,

Counsel for the Consumer Product Safety Commission.

By direction of the Commission, this Consent Agreement and Order are provisionally accepted pursuant to 16 C.F.R. 1115.20(b)(3) and (4) and shall be placed on the public record. The Commission shall announce provisional acceptance of the Consent Agreement and Order in the Commission's public calendar and in the **Federal Register**. So ordered, by direction of the Commission, this 4th day of December 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

By direction of the Commission, this Consent Agreement and Order are hereby finally accepted and issued as an Order of the Consumer Product Safety Commission pursuant to Sections 15(c), (d) and (e) of the Consumer Product Safety Act, 15 U.S.C. 2064(c), (d) and (e). By direction of the Commission, it is hereby ordered this ——— day of December, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

In the matter of Emerson Electric Co., a corporation, CPSC Docket No. 80–C0006. *Consent agreement and order.*

This agreement is made by and between Emerson Electric Co., a corporation (hereafter "Emerson"), and the staff of the Consumer Product Safety Commission (hereafter "staff"). Attached to this Consent Agreement and incorporated in it by reference is an Order which Emerson and the staff agree to have the Consumer Product Safety Commission (hereafter "Commission") issue upon final acceptance of the Consent Agreement and Order.

It is hereby agreed by and between Emerson, by its duly authorized officers, and counsel for the Commission that:

1. Emerson is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri with its office and principal place of business located at 8000 W. Florissant, St. Louis, Missouri 63136.

2. The Commission has jurisdiction over the subject matter of this Consent Agreement and Order and over Emerson under the Consumer Product Safety Act (hereafter "CPSA") [15 U.S.C. 2051 *et seq.*].

3. The Commission Order, attached hereto and incorporated by reference, is issued under Sections 15(b), 19(a) (3) and (4), and 20(a) of the CPSA [15 U.S.C. 2064(b), 2068(a) (3) and (4), and 2069(a)]. A violation of the Order is a prohibited act under Section 19(a)(5) of the CPSA [15 U.S.C. 2068(a)(5)]. Subject to the provisions of paragraph 4, the Order shall take effect upon its issuance by the Commission and its service on Emerson.

4. This Consent Agreement and Order will only take effect if and when the Commission finally accepts and adopts the Consent Agreement and Order in Docket No. 80–C0005. Should the Commission decide not to accept and adopt that Consent Agreement and Order, the instant Consent Agreement and Order shall have no force and effect.

5. This Agreement and Order, which substitute for a Complaint, apply to liquid propane ("LP") gas water heaters which contain thermostats that were manufactured by Emerson's White-Rodgers Division between 1961 and 1980. White-Rodgers produced approximately 800,000 such thermostats, of which it believes approximately 600,000 are still in use. These thermostats bear the following part numbers: 3701, 3711, 3731, 3755U, 3761, 3761U, 3762U, 3772U, 3774U and 3776U. LP gas water heaters which include thermostats produced between 1961 and 1976 were manufactured by A. O. Smith Corporation and State Industries and sold by Sears, Roebuck and Co. and other firms. LP gas water heaters which include thermostats produced between 1976 and 1980 have been manufactured by A. O. Smith Corporation, State Industries, W. L. Jackson Manufacturing Co. and Rheem Manufacturing Co. Such water heaters have been sold by Sears, Roebuck and Co., Montgomery Ward & Co., Inc. and other firms. The 1961–1964 and post-1976 thermostats do not contain the pilot gas control knob present in the thermostats that were involved in the explosions described in paragraph 9 of the Consent Agreement in CPSC Docket No. 80–C0005.

6. LP gas water heaters containing the White-Rodgers thermostat models described in paragraph 5 are consumer products as that term is defined in Section 3(a)(1) of the CPSA [15 U.S.C. 2052(a)(1)].

7. The staff has notified Emerson of its intention to recommend that the Commission institute an adjudicative proceeding against Emerson alleging that Emerson violated Sections 19(a) (3) and (4) of the CPSA [15 U.S.C. 2068(a) (3) and (4)] by failing to comply with the reporting requirements of Section 15(b) [15 U.S.C. 2064(b)].

8. Without admitting the existence of a substantial product hazard or a violation of any reporting requirements under Section 15(b) of the CPSA [15 U.S.C. 2064(b)], Emerson agrees to pay to the Commission, in accordance with the Order attached hereto, the sum of $420,000. This payment constitutes a complete settlement of any violations of the requirements of Sections 15(b) and 19(a) (3) and (4) of the CPSA [15 U.S.C. 2064(b) and 2068(a) (3) and (4)] that may be alleged on the basis of the information that the Commission staff currently possesses concerning liquid propane LP gas water heaters which contain thermostats manufactured by Emerson's White-Rodgers Division between 1961 and 1980.

9. Together with the Consent Agreement and Order in Docket No. 80–C0005, this Consent Agreement and Order resolves all issues that have arisen, or could arise, under Sections 15(b) of the CPSA [15 U.S.C. 2064(b)] with respect to the information that the staff presently possesses concerning LP gas water heaters that contain White-Rodgers thermostats manufactured during the period 1961–1980 or with respect to any potential hazard associated with such heaters of which the Commission or its staff has been informed. Nothing contained herein shall preclude the Commission from taking any further action that it deems appropriate under the CPSA, based on new information that is reported by Emerson or that it otherwise obtains, with respect to White-Rodgers thermostats that are incorporated into any appliance other than LP gas water heaters, including natural-gas fired water heaters, or with respect to any potential hazard associated with LP gas water heaters of which the Commission or its staff has not been informed.

10. In consideration of Emerson's payment of $420,000 to the Commission, the Commission agrees that it will not commence any actions, under Sections 15(b) or 19(a) (3) and (4) of the CPSA [15 U.S.C. 2064(b), 2068(a) (3) and (4)], against any manufacturer, distributor or retailer of gas water heaters containing White-Rodgers thermostats, based on any potential hazard of which the Commission or its staff has been informed. *Provided,* however, nothing in this Consent Agreement and Order relieves Emerson or any manufacturer, distributor, or retailer of any obligation it may have under Section 15(b) of the CPSA [15 U.S.C. 2064(b)] to report information which it obtains in the future regarding White-Rodgers thermostats, either concerning damage to the pilot gas control knob or interference with the thermostat safety valve caused by contaminants in LP gas, or concerning any potential hazard of which the Commission or its staff has not been informed.

11. Emerson knowingly, voluntarily and completely waives any rights it may have in this matter: (1) to a complaint setting forth the staff's allegations; (2) to an administrative or judicial hearing and any other procedural steps; (3) to seek judicial review of, or otherwise challenge or contest, the validity of the attached Order; and (4) to a statement of findings of fact and conclusions of law by the Commission under Sections 15(b), 19(a)(3) or 19(a)(4) of the CPSA [15 U.S.C. 2064(b), 2068(a)(3) or 2068(a)(4)].

12. Upon execution of this Agreement by Emerson and the Commission staff and provisional acceptance by the Commission, this Agreement and Order will be placed on the public record, on the Commission's Public Calendar, and in the **Federal Register.** The Commission will then consider the Agreement and Order pursuant to 16 CFR 1115.20(b) (4) and (5).

13. Upon final Commission acceptance, the Commission will make this Consent Agreement and Order available for public viewing at the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207.

14. Emerson understands that it is the position of the Commission that, after the attached Order has been issued by the Commission, the Order may be modified or set aside pursuant to 16 CFR 1025.58.

15. The Commission staff and Emerson are entering into this Consent Agreement and Order, and into the Consent Agreement and Order in Docket No. 80–C0005, because they agree that it is in the public interest to minimize any possibility of injury from White-Rodgers thermostats used in LP gas water heaters as a result of damage to the thermostat pilot gas control knob during the life of the product. The Commission has not made and does not hereby make any determination that LP gas water heaters equipped with White-Rodgers thermostats manufactured between 1961 and 1980 contain a defect which creates a subtantial risk of injury to the public. In particular, the Commission has not made and does not hereby make a preliminary hazard determination respecting LP gas water heaters incorporating White-Rodgers thermostats manufactured between 1964–1976, as set forth by the CPSC staff on May 14, 1980.

16. The signing of this Consent Agreement and the Consent Agreement in CPSC Docket No. 80–C0005 does not constitute an admission by Emerson that a substantial product hazard or imminent hazard exists, or that a reporting violation has occurred, with respect to any gas water heaters containing White-Rodgers thermostats.

17. With the exception of the Consent Agreement and Order entered in CPSC Docket No. 80–C0005, no agreement, understanding, representation, or interpretation not contained in this

Consent Agreement and Order may be used to vary or to contradict their terms.

18. The Commission and Emerson will issue a joint press release announcing the Consent Agreement and Order to the public.

19. Without prior notification to Emerson, the Commission and the CPSC staff may issue public statements based upon and limited to: (a) the provisions of this Consent Agreement and Order and the Consent Agreement and Order in Docket No. 80–C0005; (b) the applicable provisions of the CPSA or CPSC regulations; (c) the joint press release required under paragraph 18 above; (d) the compliance reports required under paragraph 11 of the Order entered in CPSC Docket No. 80–C0005; and (e) written materials used in the implementation of the replacement program required under the Order in CPSC Docket No. 80–C0005. However, except for the categories of materials described above, the Commission and the CPSC staff may make public statements about gas water heaters containing White-Rodgers thermostats only after prior notice to and review by Emerson in accordance with the procedures prescribed by Section 6(b)(1) of the CPSA. Nothing in this paragraph or in this Agreement limits in any fashion any Commissioner from issuing and distributing any concurring or dissenting opinion.

Signed this 30th day of November 1980.

Emerson Electric Co.

Dated: December 3, 1980.

Charles Hansen,
Senior Vice President, Law.

Dated: December 4, 1980.

Ronald E. Bogard.

Dated: December 4, 1980.

Melvin I. Kramer,
Counsel for the Consumer Product Safety Commission.

By direction of the Commission, the Consent Agreement and Order are provisionally accepted pursuant to 16 CFR 1115.20(b) (3) and (4) and shall be placed on the public record. The Commission shall announce provisional acceptance of the Consent Agreement and Order in the Commission's public calendar and in the **Federal Register**. So ordered, by direction of the Commission, this 4th day of December, 1980.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

By direction of the Commission, this Consent Agreement and Order are hereby finally accepted and issued as an Order of the Consumer Product Safety Commission pursuant to Sections 15 (b), (c) and (d) of the Consumer Product Safety Act, 15 U.S.C. 2064 (b), (c) and (d). By direction of the Commission, it is hereby ordered this——day of December 1980.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

In the matter of Emerson Electric Company, a corporation, CPSC Docket No. 80–C0006 Order.

The Commission staff and Emerson having entered into a Consent Agreement whereby emerson has agreed to pay, pursuant to Section 20 of the Consumer Product Safety Act ("the Act"), the sum of $420,000 in consideration of the undertaking of the Commission set forth in the Agreement, and the Commission having approved the terms of the Settlement Agreement;

It is therefore ordered that Emerson, within 20 days of the service of this Order upon Emerson, pay to the Commission, pursuant to Section 20(b) of the Act, the sum of $420,000

Dated: ——————.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 80-38897 Filed 12-15-80; 8:45 am]

BILLING CODE 6355-01-M

Schedule for Awarding Senior Executive Service Bonuses

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission gives notice of its schedule for awarding Senior Executive Service bonuses.

FOR FURTHER INFORMATION CONTACT: Bert Simson, Chairman, Executive Resources Board/Performance Review Board, CPSC, Washington, D.C. 20207 (301–492–6554).

SUPPLEMENTARY INFORMATION: Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days before the date on which the awards will be paid. By December 30, 1980, the Consumer Product Safety Commission intends to make decisions on Senior Executive Service bonuses for the performance rating cycle of October 1, 1979 through September 30, 1980.

Dated: December 11, 1980.

Sheldon D. Butts,
Deputy Secretary, Consumer Product Safety Commission.

[FR Doc. 80-38908 Filed 12-12-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training; Meeting

Pursuant to Section 10, paragraph (a)(2) of the Federal Advisory Act (5 U.S.C. App. I), notice is hereby given of an open meeting of the Secretary of the Navy's Advisory Board on Education and Training (SABET) to be held January 14–15, 1981. The January 14 session will begin at 1:00 p.m. and continue until 4:30 p.m. The January 15 session will begin at 8:30 a.m. and continue until 4:00 p.m. The Board will meet at the Langford Hotel, Winter Park, Florida.

As part of the meeting the Board will receive briefings on training for civilian employees of the Department of the Navy. Matters of continuing interest include visitations to training sites in the Orlando area and an update on adult basis skills development. A SABET working session will include the status of reports and committees.

Dated: December 9, 1980.

P. B. Walker,
Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 80-38959 Filed 12-15-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (do of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows: Tuesday & Wednesday, 27–28 Jan. 1981, Pomponio Plaza, Rosslyn, Virginia.

The entire meeting, commencing at 0900 hours each day, is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will

be used in a study on foreign collection systems.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

December 10, 1981.

[FR Doc. 80-38997 Filed 12-15-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Crude Oil Buy/Sell Program; Second Supplemental Notice for Allocation Period of October 1, 1980, Through March 31, 1981; Notice of Issuance of Emergency Allocations for December 1980 and January 1981

The notice specified in 10 CFR 211.65(g)(1) of the crude oil allocation (buy/sell) program for the allocation period of October 1, 1980, through March 31, 1981, was issued September 17, 1980 (45 FR 63046, September 23, 1980). A first supplemental buy/sell list for the allocation period of October 1, 1980, through March 31, 1981, was issued November 13, 1980 (45 FR 76510, November 19, 1980). The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a second supplemental buy/sell list for the allocation period of October 1, 1980, through March 31, 1981. This supplemental notice sets forth emergency allocations for the months of December 1980 and January 1981, assigned pursuant to 10 CFR 211.65(c)(2). In addition, this notice set forth a revised allocation under 10 CFR 211.65(a)(5), which was issued in response to an order of DOE's Office of Hearings and Appeals (OHA).

The supplemental buy/sell list is set forth as an appendix to this notice. The list includes the names of the small refiners granted emergency allocations for the months of December 1980 and January 1981, and their eligible refineries; the name and eligible refinery of the small refiner granted a revised allocations unde 10 CFR 211.65(a)(5); the quantity of crude oil each refiner is eligible to purchase; the fixed percentage share for each refiner-seller; and the additional sales obligation of each refiner-seller for the allocations listed.

The allocations for the small refiners on the second supplemental buy/sell list were determined in accordance with 10 CFR 211.65 (a)(5) and (c)(2). Sales obligations for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f).

The buy-sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period, directly or through exchanges to refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not ageed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of this second supplemental buy/sell notice. Upon such request, the ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

Refiner-buyers making requests for directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions;

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oils that have historically been processed in each refinery;

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries;

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the supplemental buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller;

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller;

(vi) Such other pertinent information as ERA may request.

Please note change of address. All reports and applications made under this notice should be addressed to: Jay F. Lubin, Program Manager, Crude Oil Buy/Sell Program, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461. TWX's may be sent to 710-822-9454 (answer back EVFTJ WSH). *Also note that the telephone number for the Crude Oil Allocation and Production Branch is 202-653-3420.*

Copies of the decision and orders assigning the emergency allocations listed herein may be obtained from: Economic Regulatory Administration, Public Information Office, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.

10 CFR 211.65(c)(2)(ii) states in part that applications for emergency allocations must be submitted by the first day of the month prior to the month(s) for which an allocation is sought but not before 20th day of the second month prior to the month(s) for which an allocation is sought. Thus, any small refiner that wants to apply for an emergency allocation for the month of February 1981 must submit its application to ERA between December 20, 1980, and January 1, 1981.

ERA has previously stated that it does not consider the names of potential suppliers contacted by small refiners in unsuccessful attempts to obtain crude oil, or offers of crude oil that an applicant has rejected, to be proprietary (45 FR 46850, July 11, 1980). Some small refiner applicants have taken exception to ERA's position in this regard, claiming that to reveal offers of crude oil made by potential suppliers, even if the offers were rejected by the applicant, would unfairly affect the future negotiating position of the applicant. Small refiners further claim that some offers of crude oil made to them, and the prices quoted, are considered by the potential suppliers to be proprietary. In consideration of these comments, ERA will consider claims of confidentiality regarding offers of crude oil that applicants have rejected, *only if the applicant provides a detailed statement as to why the applicant considers the information to be proprietary.* Applications which withhold this information from public disclosure copies and fail to make such a statement

may be dismissed with prejudice.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before January 15, 1981.

Issued in Washington, D.C., on December 10, 1980.

Paul T. Burke,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

The buy/sell list for the period October 1, 1980, through March 31, 1981, is hereby amended to reflect new emergency allocations assigned pursuant to 10 CFR 211.65(c)(2) and a revised allocation under 10 CFR 211.65(a)(5). The amended list sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner seller, the additional volumes of crude oil that each refiner-seller is required to offer for sale to small refiners, and the volumes of crude oil that each refiner-buyer is eligible to purchase for each eligible refinery.

All refiner-sellers' percentage shares have been changed to reflect the Continental Oil Company and Exxon Company, U.S.A. Decision and Order issued by DOE's Office of Hearings and Appeals on March 20, 1979 (3 DOE Para. 82,551). While the refiner-sellers' percentage shares displayed are rounded to three decimal places, six decimal places have been utilized to establish actual sales obligations.

Also included in the appendix is a list of the names and addresses of the persons designated by refiner-sellers to receive service of copies of applications for emergency crude oil allocations.

Refiner-Sellers' Sales Obligations, Oct. 1, 1980, Through Mar. 31, 1981, Allocation Period

The following list sets forth refiner-sellers' additional sales obligations for the October 1980 through March 1981 period resulting from the allocations listed in the notice. Total sales obligations also include the previous obligation published in the first supplemental list issued on November 13, 1980 (45 FR 76510, November 19, 1980).

Refiner-sellers	Share	Additional obligation (barrels)	Total obligation (barrels)
Amoco Oil Co	0.105	981,474	2,893,115
Atlantic Richfield Co	.077	720,743	3,635,444
Chevron U.S.A., Inc	.102	951,714	2,323,874
Cities Service Co	.025	230,493	1,827,312
Continental Oil Co	.004	37,482	90,062
Exxon Co., U.S.A.	.089	833,965	2,181,666
Getty Refining & Marketing Co	.021	198,793	585,988
Gulf Refining & Marketing Co	.091	853,756	2,906,562
Marathon Oil Co	.023	214,160	820,296
Mobil Oil Corp	.094	881,604	2,426,987
Phillips Petroleum Co	.041	387,700	1,528,668
Shell Oil Co	.114	1,064,646	4,509,379
Sun Co	.055	520,029	1,439,000
Texaco, Inc	.114	1,065,517	3,025,824
Union Oil Co. of California	.046	428,321	3,547,579
Total sales obligations		9,370,397	33,741,756

Revised Buy/Sell Allocation

On February 15, 1980, ERA granted an allocation to Sunland Refining for its Bakersfield, California, refinery. Sunland appealed ERA's order, and on September 3, 1980, DOE's Office of Hearings and Appeals (OHA) remanded the matter to ERA for further consideration. In response to the remand, on December 4, 1980, ERA issued a revised Decision and Order to Sunland assigning Sunland a net additional allocation of 78,099 barrels, under 10 CFR 211.65(a)(5), for the April–September 1980 allocation period. This additional allocation is reflected in the list issued today.

Emergency Allocations for December 1980 and January 1981

Refiner-buyer	Refinery location	December allocation (barrels)	January allocation (barrels)
CRA—Farmland Industries	Coffeyville, KS	425,661	779,061
Crystal Refining	Carson City, MI	69,161	69,161
Indiana Farm Bureau Cooperative	Mount Vernon, IN	185,597	207,097
Industrial Fuel & Asphalt	Hammond, IN	92,318	92,318
Lakeside Refining	Kalamazoo, MI	52,235	58,342
Rock Island Refining	Indianapolis, IN	433,039	603,539
NCRA	McPherson, KS	499,038	499,038
Seaview Petroleum	Paulsboro, NJ	299,150	299,150
Texas City Refining	Texas City, TX	2,541,690	2,086,703
Total		4,597,889	4,694,409

Summary of Additional Allocations, Oct. 1, 1980, Through Mar. 31, 1981, Allocation Period

	Barrels
Emergency allocations (December 1980)	4,597,869
Emergency allocations (January 1981)	4,694,409
Sunland revised allocation	78,099
Total allocations	9,370,397

Contact List for Refiner-Sellers

Matthew J. Gallo, Amoco Oil Company, 200 E. Randolph Drive, P.O. Box 5910–A, Chicago, IL 60601

J. J. Hur, Atlantic Richfield Company, 515 South Flower Street, P.O. Box 2679, Los Angeles, CA 90071

Frank W. Bradley, Chevron U.S.A., Inc., 1700 K Street, N.W., Suite 1204, Washington, DC 20006

C. D. Head, Cities Service Company, P.O. Box 300, Tulsa, OK 74102

Mike McNeese, Conoco, Inc., P.O. Box 2197, Houston, TX 77001

Barbara Finney, Exxon Company, U.S.A., P.O. Box 2180, Houston TX 77001

Eugene F. Gervino, Getty Refining & Marketing Company, P.O. Box 1650, Tulsa, OK 74102

L. G. Armel, Gulf Oil Corporation, Gulf Building, P.O. Box 2001, Houston, TX 77001

Victor Beghini, Vice President, Marathon Oil Company, 539 South Main Street, Findlay, OH 45840
W. L. Fanning, Jr., Mobil Oil Corporation, 3225 Gallows Road, Fairfax, VA 22037
A. L. Hobbs, Phillips Petroleum Company, Phillips Building, Bartlesville, OK 74004
G. G. Carnahan, Shell Oil Company, P.O. Box 2463, Houston, TX 77001
C. Steven LeBaron, Sun Petroleum Products Company, 9th Floor, Law Department, 1608 Walnut Street, Philadelphia, PA 19103
Paul D. McNaughton, Texaco, Inc., P.O. Box 52332, Houston, TX 77052
Howard Johnson, Texaco, Inc., c/o Legal Department, 2000 Westchester Avenue, White Plains, NY 10650
Lowell Way, Union Oil Company of California, 1650 East Golf Road, Schaumburg, IL 60196

[FR Doc. 80-38973 Filed 12-15-80; 8:45 am]
BILLING CODE 6450-01-M

Imported Crude Oil Transfer Pricing Program

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Publication of: Revised Maximum and Representative Prices for Reference Crude Oils and Procedure for Those Crude Oils for Which No Reference Crude Oil for a Month was Designated for the Period January through June 1979; and Maximum and Representative Prices for the Period July through December 1979.

SUMMARY: Notice is hereby given of revised maximum and representative prices for certain reference crude oils for the period January through June 1979. These prices, determined by DOE pursuant to 10 CFR 212.84, are applicable to the crude oils when imported in transactions between affiliated entities during the period. The maximum and representative prices for this period were initially published in 45 FR 21342 (April 1, 1980).

Notice is also given of the proper measurement of costs for crude oils originating from a country where no reference crude oil was designated in a given month or months. Proposals in this regard were presented in 45 FR 21342 (April 1, 1980). Public comments were invited and received to assist DOE in determining an expedient method of determining these prices. On June 17, 1980, a public conference was held at which interested parties presented their views. Subsequent to the receipt of comments and additional analyses, maximum and representative prices were revised as appropriate and parity calculation methodology adopted, as noted below.

Notice is also given of maximum and representative prices determined by DOE pursuant to 10 CFR 212.84 for certain crude oils when imported in transactions between affiliated entities for the months July 1979 through December 1979. The prices for the periods January through June 1979 and July through December 1979 are set out in the tables attached to this notice. They will be used to determine whether any part of the crude oil cost component of landed costs reported by refiners to DOE for these periods should be disallowed according to § 212.84.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor to the Special Counsel for Compliance, or William H. Harrison, Director, Transfer Pricing and Transportation, Department of Energy, 1200 Pennsylvania Avenue NW., Mail Stop 4111, Washington, D.C. 20461. Telephone Nos., respectively: (202) 633-8310, (202) 633-9410.

SUPPLEMENTAL INFORMATION: Pursuant to 10 CFR 212.84(f), DOE published changes in its list of reference crude oils and maximum and representative prices applicable to the period January through June 1979, to be used to determine whether any part of the crude oil cost component of landed costs reported by refiners importing crude oil in affiliated and certain third-party transactions during that period should be disallowed. 45 FR 21342 (April 1, 1980). In addition, the notice set forth two possible alternatives to the established method for determining "parity" prices for crude oils from countries in which no reference crude oil is designated in a given month. Public comments were solicited and received. On June 17, 1980, a public conference was held at which interested parties presented their views and offered suggestions.

The comments generally concurred in the announced changes in crude oils designated as reference crude oils. These changes have been adopted and have been used in the calculation of maximum and representative prices for the period January through June, 1979.

A number of comments addressed the factual bases and calculations used to determine maximum and representative prices. On consideration of the comments received and further analyses of data, the prices initially published for January through June, 1979, have been revised. The revised prices are set out in tables attached to this notice. Many of the comments also suggested changes in the transfer pricing program regulations and enforcement policy. The conference was not held for the purpose of considering amendments to the regulation and no determinations have been made as to what, if any, changes in the regulations may be appropriate. Therefore, except for "parity" prices, calculation of which may be modified pursuant to 10 CFR 212.84(e)(7), the prices have been calculated in accordance with 10 CFR 212.84 as explained in the April 1 Notice. Disallowances will be determined and Notices of Proposed Disallowance will be issued on the basis of these prices.

In light of the comments received and analyses of data, it has been determined that an adjustment other than that previously utilized to calculate "parity" prices for crude oils from countries for which no reference crude oil is available for a given month will better reflect relative market values. Pursuant to 10 CFR 212.84(e)(7), the alternative calculation described below has been used to determine maximum and representative prices for the period January through June 1979 where DOE has not designated a reference crude oil in any month.

Parity Price Calculations

The transfer pricing regulations at § 212.84(f) provide that DOE may choose not to designate a reference crude oil whenever (i) the total volume in a month is less than 600,000 barrels, (ii) the number of arm's-length transactions of at least 100,000 barrels is less than four, or (iii) more than 35 percent of the transactions by volume are pursuant to a single contract.

Pursuant to § 212.84(e)(6), for a crude oil from a country in which no reference crude oil is available in a given month, a "parity" pricing calculation is made by adjusting the maximum and representative prices of a reference or related crude oil most nearly similar in quality in the same geographic region. The procedures used to make "parity" pricing calculations were published in a Notice dated June 20, 1975 (40 FR 27058, June 26, 1975). That calculation provides for three adjustments: clean product, low sulfur, and transportation.

Pursuant to § 212.84(e)(7), we may order new adjustments to be used in the parity calculation. Two possible alternatives to better reflect relative market values between the two crude oils being compared were published for comment in the April 1 notice. The first alternative was to base the parity calculation on the relative values of the two crude oils using a "three-cut" procedure based upon a true boiling point (TBP) curve of the crude oils. Valuations for the three fractions or "cut" would be determined by using

monthly postings derived from published data on regional markets. The second alternative was to compare the official selling prices of the two crudes.

The comments demonstrated equal support for the "three-cut" and official selling price proposals. Proponents of the three cut method indicated that they believed it would provide a better reflection of the value of the crude oils vis-a-vis their refining characteristics, whereas the selling price differential proposal was favored by some due to the implicit market value reflected in that price and the relative predictability of the results.

In addition to commenting on the proposals, most of the comments stressed the importance of choosing for comparison a crude oil most similar in quality to the one for which a parity price is calculated. One commenter considered similar qualities to be of greater importance than whether the two crude oils being compared originate from the same geographic region. Sulfur content was considered by some commenters to be particularly important in determining the most similar crude. We continue to believe that geographic proximity is an important consideration. With regard to the crude oil characteristics, gravity, sulphur, metallic content and pour point are among the criteria used in identifying most similar crudes.

Regardless of the option recommended, the commenters were generally concerned that the calculations required be simple and administratively feasible and that the adjustments reflect relative market differentials.

Pursuant to 10 CFR 212.84(e)(7), upon consideration of the alternatives in light of the comments received, and upon further analysis, we are adopting an alternative procedure for calculating the maximum and representative prices of a crude oil ("parity crude oil") from a country where DOE has not designated a reference crude oil in a particular month pursuant to 10 CFR 212.84(e) and (f). The options in order of priority and application are:

(1) where official government selling prices exist for both the parity crude oil and the most similar crude oil in the same geographic region, the differential in the government selling prices of the two crude oils shall be added to the maximum and representative prices of the most similar crude oil in the geographic region.

(2) where option (1) cannot be applied, the maximum and representative prices of the parity crude oil will be determined in accordance with § 212.84(e)(6), as modified by the Notice and Order of June 20, 1975 (40 FR 27058, June 26, 1975).

The first option avoids, in most situations, the need for complex determinations of quality differences which are inevitable under § 212.84(e)(6) when crude oils originating from different countries within the same geographic region are compared. It will provide an administratively convenient method for determining parity prices where application of the criteria of § 212.84(f) indicates that the maximum and representative prices in a month should not be determined from the prices reported for that month.

This option, one adjustment based on the difference between government selling prices for the parity crude and the most similar crude in the geographic region, was originally suggested in the Notice of April 1, 1980. In addressing various aspects of the transfer pricing regulations, several commenters indicated that they considered official selling prices to reflect the relative market values of the crude oils in those countries. Use of official selling prices avoids the complex calculation that would be required by use of the "three cut method" option proposed in the April 1 notice. The "three cut method" would involve a crude assay for each of the crudes to be compared, as well as a determination of the market values of the products to be refined from those crudes. Furthermore, the government selling price option will retain the emphasis on the crude oil market rather than on the market for particular end products which may vary among refiners.

In the event that the option cannot be utilized, the maximum and representative prices for the crude oil will be determined according to the parity method set forth in § 212.84(e)(6), as modified by the Notice and Order of June 20, 1975 (40 FR 27058, June 26, 1975). Thus, the parity crude prices will be calculated by reference to the maximum and representative prices for the most similar crude oil in the same geographic region by use of the three adjustments for low sulphur premium, clean product premium and transportation.

Maximum and Representative Prices for the Period July Through December, 1979

The maximum and representative prices for the six-month period July through December, 1979, have been determined by DOE pursuant to 10 CFR 212.84 and are set out in tables attached to this Notice. These prices will be used to determine whether any part of the transfer prices reported by refiners which imported crude oil in interaffiliate transactions during the period should be disallowed.

No changes have been made in the reference crude oils designated for the preceding six-month period.

As previously noted, § 212.84(f) provides that DOE may choose not to designate a reference crude oil whenever one or more of three conditions is found. In several instances, it appears that transactions representing more than 35 percent of the volume in the reported transactions may have been pursuant to a single contract. These were: Brunei, BX–035, in July, September, October and November; Gabor, GB–061, in July and September; Oman, MU–160, in July and December; Dubai, TC–015, in October, November and December; Trinidad, TD–190, in August; Indonesia, ID–070, in September; and Iraq, IZ–101, in November. After examining the prices in these transactions, we have determined to continue to designate the reference crude for those months and to calculate the maximum and representative prices for those reference crude oils in accordance with § 212.84(e)(1) and (2). Moreover, in one instance, Attaka, ID–072, in December 1979, only three transactions in excess of 100,000 barrels were reported. However, in light of six other transactions also reported during that month, we have determined to use the maximum and representative prices produced by these transactions.

In certain other instances, we have chosen, pursuant to § 212.84(f), not to designate reference crude oils for particular months. In these instances, prices have been calculated in accordance with the method described in this Notice.

Anyone wishing to submit comments on the maximum and representative prices for the period July through December 1979, should provide them to Mr. Adams at the address indicated above. We request that persons interested in submitting comments do so within 30 days of this publication to allow contemporaneous consideration. Any information furnished which is considered confidential must be so identified, and a copy of the submission with such information deleted must be furnished. See 10 CFR 205.9(f).

Issued in Washington, D.C. on December 9, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Table I.—*Maximum Prices*

Reference crude	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	June 1979
Algeria (AG–025)	$14.85	$14.86	$14.85	$18.59	$20.50	$21.07
Angola (AO–030)	(1)	(2)	(2)	(1)	(1)	(1)
Indonesia:						
(ID–070)	14.00	15.18	14.07	15.75	16.50	18.47
(ID–072)	15.25	15.35	15.35	17.10	18.09	21.14
Iraq (IZ–101)	15.53	14.13	15.07	15.87	16.67	19.96
Kuwait (KU–110)	12.99	12.87	14.06	15.82	16.40	19.10
Libya (LY–130)	14.35	14.77	15.68	18.23	18.79	21.44
Oman (MU–160)	(1)	(1)	(1)	(1)	(1)	(1)
Mexico (MX–280)	14.13	14.13	14.13	17.12	17.12	17.12
Nigeria (NI–150)	15.31	15.23	15.22	19.44	21.08	24.46
Norway (NO–158)	15.95	16.00	16.00	18.70	18.85	21.16
Qatar (QA–170)	14.10	15.00	(1)	(1)	(1)	23.00
Saudi Arabia:						
(SA–180)	13.52	13.60	13.60	14.65	14.65	18.03
(SA–181)	12.78	12.79	12.79	13.75	13.75	17.27
(SA–182)	13.13	13.18	13.14	14.15	14.15	17.64
Abu Dhabi (TC–010)	14.13	14.19	15.15	17.12	17.81	17.91
Dubai (TC–015)	(3)	(1)	18.97	19.03	(1)	(1)
United Kingdom (UK–403)	15.55	15.51	15.48	18.40	18.38	20.76
Venezuela:						
(VE–220)	9.94	9.95	9.94	11.09	11.09	11.09
(VE–221)	13.26	13.26	13.54	15.68	16.54	16.22
(VE–225)	(1)	14.22	14.07	16.61	17.10	17.10

[1] Less than three reporting companies. Data treated as proprietary.
[2] No reference crude designated pursuant to § 212.84(f).
[3] Price not required, no imported equity reported for this crude stream in this month.

Table II.—*Representative Prices*

Reference crude	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	June 1979
Algeria (AG–025)	$14.75	$14.76	$14.75	$18.49	$18.56	$20.97
Angola (AO–030)	(1)	(2)	(2)	(1)	(1)	(1)
Indonesia:						
(ID–070)	13.90	13.90	13.90	15.65	16.40	18.25
(ID–072)	15.03	15.25	15.25	17.00	17.99	21.04
Iraq (IZ–101)	15.13	13.79	14.72	15.87	16.57	19.04
Kuwait (KU–110)	12.79	12.77	18.96	15.72	16.27	19.00
Libya (LY–130)	14.14	14.43	15.51	17.70	18.40	20.88
Oman (MU–160)	(1)	(1)	(1)	(1)	(1)	(1)
Mexico (MX–280)	14.03	14.03	14.03	17.02	17.02	17.02
Nigeria (NI–150)	15.21	15.12	15.12	18.72	20.98	21.40
Norway (NO–158)	15.85	15.85	15.85	18.60	18.60	21.06
Qatar (QA–170)	14.00	14.25	(1)	(1)	(1)	18.26
Saudi Arabia:						
(SA–180)	13.42	13.50	13.50	14.55	14.55	17.93
(SA–181)	12.68	12.69	12.69	13.65	13.65	17.17
(SA–182)	13.03	13.08	13.04	14.05	14.05	17.54
Abu Dhabi (TC–010)	14.03	14.04	15.05	17.02	17.04	17.81
Dubai (TC–015)	(3)	(1)	17.42	16.84	(1)	(1)
United Kingdom (UK–403)	15.45	15.41	15.38	18.30	18.28	20.66
Venezuela:						
(VE–220)	9.84	9.84	9.84	10.99	10.99	10.99
(VE–221)	13.16	13.16	13.17	15.54	16.14	16.12
(VE–225)	(1)	14.12	13.97	16.51	16.93	17.00

[1] Less than three reporting companies. Data treated as proprietary.
[2] No reference crude designated pursuant to § 212.84(f).
[3] Price not required, no imported equity reported for this crude stream this month.

Table III.—*Maximum Prices*

Reference crude	July 1979	Aug. 1979	Sept. 1979	Oct. 1979	Nov. 1979	Dec. 1979
Algeria (AG–025)	$23.60	$23.60	$23.60	$23.60	$26.37	$20.00
Angola (AO–030)	(2)	(1)	(2)	(2)	(2)	(2)
Indonesia:						
(ID–070)	21.23	21.22	21.74	21.22	21.22	25.50
(ID–072)	35.00	(3)	23.60	36.35	38.25	29.00
Iraq (IZ–101)	21.92	22.10	22.10	22.18	24.28	(1)
Kuwait (KU–110)	19.59	19.59	19.59	31.25	39.00	25.60

Table III.—*Maximum Prices—Continued*

Reference crude	July 1979	Aug. 1979	Sept. 1979	Oct. 1979	Nov. 1979	Dec. 1979
Libya (LY-130)	27.85	27.83	27.90	33.62	33.59	37.56
Oman (MU-160)	22.51	(1)	22.52	(1)	25.09	28.70
Mexico (MX-280)	22.59	22.39	22.63	24.70	24.70	24.70
Nigeria (NI-150)	24.96	29.04	34.43	27.03	39.06	35.02
Norway (NO-156)	23.60	23.60	23.60	26.37	26.37	42.00
Qatar (QA-170)	(2)	(1)	22.04	(2)	39.50	(1)
Saudi Arabia:						
(SA-180)	18.10	18.10	18.05	18.10	24.10	24.10
(SA-181)	17.27	17.27	17.27	17.27	23.27	23.27
(SA-182)	17.65	17.64	17.55	17.54	23.64	23.65
Abu Dhabi (TC-010)	21.56	21.56	21.66	21.66	27.66	27.67
Dubai (TC-015)	(2)	30.10	33.22	34.50	23.71	36.75
United Kingdom (UK-403)	23.27	23.26	23.22	23.26	26.08	26.09
Venezuela:						
(VE-220)	12.40	12.40	12.40	12.97	13.04	15.60
(VE-221)	23.34	19.49	19.43	19.87	19.53	23.68
(VE-225)	20.57	20.52	20.54	20.56	(1)	24.50

[1] Less than three reporting companies. Data treated as proprietary.
[2] No reference crude designated pursuant to § 212.84(f).
[3] Price not required, no imported equity reported for this crude stream in this month.

Table IV.—*Representative Prices*

Reference crude	July 1979	Aug. 1979	Sept. 1979	Oct. 1979	Nov. 1979	Dec. 1979
Algeria (AG-025)	$23.50	$23.50	$23.50	$23.50	$26.27	$29.85
Angola (AO-030)	(1)	(1)	(2)	(2)	(2)	(2)
Indonesia:						
(ID-070)	21.13	21.12	21.12	21.12	21.12	23.60
(ID-072)	23.71	(2)	23.50	33.73	23.73	27.90
Iraq (IZ-101)	21.26	22.00	22.00	22.07	24.18	(1)
Kuwait (KU-110)	19.49	19.49	19.49	29.84	25.50	25.50
Libya (LY-130)	23.01	23.05	27.62	30.85	29.81	37.27
Oman (MU-160)	22.41	(1)	22.39	(1)	24.26	28.60
Mexico (MX-280)	22.49	22.49	22.48	24.60	24.60	24.60
Nigeria (NI-150)	24.27	25.60	26.76	25.87	31.26	32.00
Norway (NO-158)	23.50	23.50	23.50	26.27	26.27	32.00
Qatar (QA-170)	(2)	(1)	21.43	(2)	28.25	(1)
Saudi Arabia:						
(SA-180)	18.00	18.00	17.95	18.00	24.00	24.00
(SA-181)	17.17	17.17	17.17	17.17	23.17	23.17
(SA-182)	17.55	17.54	17.45	17.42	23.54	23.55
Abu Dhabi (TC-010)	21.46	21.46	21.56	21.56	27.56	27.57
Dubai (TC-015)	(2)	30.00	30.00	20.11	23.51	35.99
United Kingdom (UK-403)	23.17	23.16	23.12	23.16	25.98	25.99
Venezuela:						
(VE-220)	12.30	12.30	12.30	12.80	12.94	15.63
(VE-221)	19.17	19.18	19.17	19.45	19.43	23.58
(VE-225)	20.47	20.42	20.37	20.46	(1)	24.37

[1] Less than three reporting companies. Data treated as proprietary.
[2] No reference crude designated pursuant to § 212.84(f).

[FR Doc. 80-38974 Filed 12-15-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-R-80-39]

Voluntary Guidelines for the Advertising Standard Under the Public Utility Regulatory Policies Act of 1978; Public Hearing Cancellation

AGENCY: Economic Regulatory Administration.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the cancellation of the public hearing on the "Proposed Voluntary Guideline for the Advertising Standard under the Public Utility Regulatory Policies Act of 1978" (45 FR 76370, November 18, 1980) scheduled for 9:30 a.m. on December 17, 1980 in Room 2105, 2000 M St., N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Stephen S. Skjei, Division of Rates and Energy Management, Office of Utility Systems, Economic Regulatory Administration, 2000 M Street, N.W., Room 4016 D, Department of Energy, Washington, D.C. 20461, telephone (202) 653-3913
William L. Webb, Office of Public Information, Economic Regulatory Administration, 2000 M Street, N.W., Room B-110, Department of Energy, Washington, D.C. 20461, telephone (202) 653-4055
Arthur Perry Bruder, Office of General Counsel, 1000 Independence Avenue, S.W., Room 1E-258, Department of Energy, Washington, D.C. 20585, telephone (202) 252-9516
Cynthia Ford, Office of Public Hearings Management, Economic Regulatory Administration, 2000 M Street, N.W., Room B-210, Department of Energy, Washington, D.C. 20461, telephone (202) 653-3971

Issued in Washington, D.C. on December 12, 1980.

Howard Perry,

Acting, Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 80-39237 Filed 12-15-80; 10:30 am]

BILLING CODE 6450-01-M

Office of Energy Research

Inertial Confinement Fusion Review Panel of the Energy Research Advisory Board; Cancellation of Meeting

This notice is given to advise of the cancellation of the meeting of the Inertial Confinement Fusion Review Panel of the Energy Research Advisory Board originally scheduled to be held on December 18, 1980, from 9:00 a.m. to 12:00 noon, Forrestal Building, Room BE-069. Notice of meeting was published in 45 FR 79144, November 28, 1980.

Issued in Washington, D.C. on December 10, 1980.

Edward Frieman,

Director of Energy Research.

FR Doc. 80-38975 Filed 12-15-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180472B; PH-FRL 17037]

California; Amendment to Specific Exemption for Diazinon on Citrus Pulp

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA issued an amendment to a specific exemption granted to the California Department of Food and Agiculture (hereafter referred to as the "Applicant") to use diazinon on 15 acres of citrus pulp in Riverside County California, to control vinegar flies. The amendment extended the time period that diazinon could be used for this purpose and increased the quantity of the active ingredient authorized to provide for the additional applications.

DATE: The specific exemption was amended to expire on November 1, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St. SW., Washington, D.C. 20460 (202-426-0223).

SUPPLEMENTARY INFORMATION: In the Federal Register of September 23, 1980 (45 FR 63132), EPA announced that a specific exemption had been granted to the Applicant to use a maximum of 933.75 pounds of diazinon to control vinegar flies on citrus pulp that was being held until it could be transported to dairies as cattle feed. The specific exemption expired on August 17, 1980. Since then, the Applicant requested permission to continue the program on a daily basis until November 1, 1980. An additional 161.25 pounds of diazinon were requested to provide for these applications. The Applicant indicated that with warm weather the flies were a continuing problem that would remain until the expected total removal of the citrus pulp by November 1, 1980.

After reviewing the application and other available information, EPA determined that the requested amendment was not likely to result in any additional health or environmental problems. Accordingly, EPA granted the amendment by providing for additional daily applications of 0.75 pound active ingredient per acre until November 1, 1980, and authorizing an additional 161.25 pounds of active ingredient to provide for these applications. All other terms and conditions of the specific exemption granted on August 11, 1980, still applied.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Date: December 9, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-38882 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180540; PH-FRL 1703-8]

Illinois; Issuance of Specific Exemption for Permethrin on Pumpkins

AGENCY: Environment Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Illinois Department of Agriculture (hereafter referred to as the "Applicant") for the use of permethrin on 2,000 acres of pumpkins in Iroquois, Mason, Peoria, Tazewell, Vermillion, and Woodford Counties, Illinois, for control of the squash bug. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on November 30, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-124, 401 M St. SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: The squash bug feeds on pumpkin foliage and fruit until frost, then it concentrates its attack on the fruit. According to the Applicant, squash bug populations have been increasing in the major two pumpkin-producing areas in the State. The Applicant states that nymph control is rated only reasonably good for the two registered pesticides (parathion and Dylox) and that neither controls adults. The Applicant indicates that the concentration of adults in late season preparing to overwinter results in the greatest crop damages. The Applicant estimates that losses due to uncontrolled heavy squash bug infestation could reach as high as $750,000 this year.

The Applicant proposed to make two aerial applications of permethrin at a rate of 0.1 pound of the active ingredient (a.i.), permethrin, per acre. The Applicant planned to treat 2,000 acres of commercial pumpkins grown for processing.

EPA has determined that residues of permethrin from the proposed use should not exceed 0.5 part per million (ppm) in or on pumpkins. This level has been judged adequate to protect the public health. A 60-day crop rotation restriction was imposed.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Ambush, EPA Reg. No. 10182-18, manufactured by ICI Americas, Inc., and Pounce, EPA Reg. No. 279-3014, manufactured by FMC Corp., which contain the a.i. permethrin, may be used. If unregistered labels are used in connection with these products, they must contain the identical applicable precautions and restrictions which appear on the registered labels.

2. A total of 2,000 acres of pumpkins in the counties named above may be treated.

3. A maximum of 400 pounds of a.i. may be applied.

4. Two aerial applications at a rate of 0.1 pound a.i. per acre are authorized.

5. A pre-harvest interval of 10 days will be observed.

6. Applications will be by air in 4 gallons of finished spray per acre.

7. All applications will be made by State-certified commercial applicators or persons under their direct supervision.

8. A 60-day crop rotation restriction is imposed.

9. It is recommended that permethrin not be applied any closer to fishbearing fresh waters than 200 feet. Applications closer than this may result in fish and/or other aquatic organism kills.

10. Participants are to be notified of their obligation to report any adverse effect on non-target organisms arising from the use of these products. The EPA must be immediately informed of any adverse effect resulting from the proposed use.

11. Precautions must be taken to avoid or minimize spray drift to non-target areas. It is recommended that pesticide application be made when wind speeds are between 2 and 5 miles per hour. No pesticide applications are to be made when wind speeds exceed 10 miles per hour.

12. These products are highly toxic to bees exposed to direct treatment or to residues on crops or weeds. The pesticide may not be applied or allowed to drift to weeds or crops in bloom if bees are actively visiting the treatment area. Protective information may be obtained from the Illinois Cooperative Agricultural Extension Service.

13. Permethrin is extremely toxic to fish and aquatic invertebrates. It may not be applied directly to any body of water, and drift reduction precautions must be observed. It may not be applied where excessive runoff is likely to occur. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes or excess pesticides.

14. Pumpkins with residues of permethrin not exceeding 0.5 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

15. All applicable directions, restrictions, and precautions on the EPA-registered product labels must be adhered to.

16. The Applicant is responsible for assuring that all of the provisions of this

specific exemption are met and must submit a final report summarizing the results of the program by May 1, 1981.

(Sec. 18 as amended 92 Stat. 819; 7 U.S.C. 136))

Dated: December 9, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-38885 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180542 PH-FRL 1703-5]

Virginia; Issuance of Specific Exemption for Mesurol on Grapes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Virginia Department of Agriculture and Consumer Services (hereafter referred to as the "Applicant") to use Mesurol to control depredating birds on a maximum of 300 acres of grapes in Virginia. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on November 30, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-107, 401 M St., SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, birds can seriously reduce the crop of marketable grapes. The amount of injury varies from year to year, reflecting bird populations and avilability of alternative food sources. Grapes are generally harvested after other berry crops and thus can become a major food source for birds. Grapes are subject to feeding at all times after the fruit has begun to ripen. Bird species observed in grape fields include robins, finches, starlings, sparrows, mourning doves, orioles, cedar waxwings, and blackbirds.

There are currently no pesticides registered for bird control in grapes. There are two types of alternative control available: (a) scare devices, and (b) exclusion devices. According to the Applicant, scare devices do not prevent, but only reduce, feeding injury; some birds quickly adapt to these devices. The Applicant claims that exclusion devices are prohibitively expensive. Mesurol is currently registered as a bird repellent on cherries.

The Applicant proposed to apply 2.67 pounds of Mesurol, which contains the active ingredient (a.i.) 3,5-Dimethyl-4-(Methylthio) phenyl methylcarbamate, per acre with up to three applications. The Applicant anticipates that grape growers in Virginia could lose from $40 to $160 per acre annually, without a control program. in some extreme situations, the Applicant reported, 100 percent crop loss has occurred.

EPA has determined that residues of the a.i. and its cholinesterase-inhibiting metabolites would not exceed 10 parts per million (ppm) in or on grapes, 20 ppm in or on raisins, and 50 ppm in or on grape pomace and raisin waste, from the proposed use. These residue levels have been judged adequate by EPA to protect the public health. EPA has also determined that the proposed use should not present and undue hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Mesurol 75% WP insecticide-bird repellent, EPA Reg. No. 3125-288, may be used. If an unregistered label is used in connection with this product, it must contain the identical applicable precautions and restrictions which appear on the registered label.

2. Mesurol is to be applied by ground equipment at a rate of 2.67 pounds (2.0 pounds a.i.) per acre. No more than three applications may be made per season.

3. The first application of Mesurol may be made when there is a 5 percent observable damage, the second when there is 10 percent damage; and the third when feeding again becomes evident.

4. A 1-day preharvest interval is imposed.

5. A total of 2,400 pounds of Measurol are authorized to treat up to 300 acres of grapes.

6. Mesurol is toxic to fish and other aquatic organisms. It may not be applied directly to any body of water and drift reduction precautions must be observed. It may not be applied where excessive run off is likely. Care must be taken to prevent contamination of water by excess pesticides.

7. Mesurol is highly toxic to bees exposed to direct treatment or residues on crops or blooming weeds. It may not be applied or allowed to drift to crops or weeds when bees are actively visiting the area.

8. All applicable precautions, restrictions, and directions on the registered lable must be followed.

9. Residues of the a.i. and its cholinesterase inhibiting metabolites not exceeding the following levels may enter into interstate commerce: grapes—10 ppm; raisins—20 ppm; raisin waste—50 ppm; grape pomace—50 ppm. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

10. The Applicant is responsible for ensuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by March 31, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: December 9, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-38884 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180543; PH-FRL 1703-4]

Washington; Issuance of Specific Exemption for Use of Mesurol on Grapes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to use Mesurol to control depredating birds on 2,500 acres of grapes in Washington. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on November 30, 1980.

FOR FURTHER INFORMATION CONTACT: Edward Gross, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St. SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, birds can seriously reduce the crop of marketable grapes. The amount of injury varies from year to year, reflecting bird populations and availability of alternative food sources. Grapes are generally harvested after other berry crops and thus can become a major food source for birds. Grapes are subject to feeding at all times after the fruit has begun to ripen. The chief depredators of wine grapes in Washington are robins and starlings.

There are currently no pesticides registered for bird control on grapes. There are two types of alternative control available: (a) scare devices, which rely on noise, and (b) netting. According to the Applicant, scare devices do not prevent, but only reduce, feeding injury. Some birds quickly adapt to these devices, while people living in the area are discomforted. The Applicant claimed that netting is prohibitively expensive. Mesurol is

currently registered as a bird repellent on cherries.

The Applicant proposed to apply 3 pounds of Mesurol, which contains the active ingredient (a.i.) 3,5-dimethyl-4-(methylthio) phenyl methylcarbamate, per acre with up to two applications. The Applicant anticipated that grape growers in Washington could lose up to $842,500 from depredating birds on grapes without a control program.

EPA has determined that residues of the a.i. and its cholinesterase-inhibiting metabolites would not exceed 10 parts per million (ppm) in or on grapes, 20 ppm in or on raisins, and 50 ppm in or on grape pomace and raisin waste, from the proposed use. These residue levels have been judged adequate by EPA to protect the public health. EPA has also determined that the proposed use should not present an undue hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Mesurol 75% WP insecticide-bird repellent, EPA Reg. No. 3125-288, may be used.

2. Mesurol is to be applied by air or ground equipment at a rate of 3 pounds (2.25 pounds a.i.) per acre. No more than 2 applications may be made per season. Ground applications will use a minimum of 100 gallons of water per acre. Aerial applications by helicopter only will use a minimum of 10 gallons of water per acre.

3. Application of Mesurol is restricted to those grape fields where damage from bird depredation will cause significant economic losses, as determined by Cooperative Extension or authorized State personnel.

4. Application is to begin at the first sign of major bird damage. A 1-day preharvest interval is imposed.

5. A total of 11,250 pounds a.i. are authorized to treat up to 2,500 acres.

6. Mesurol is toxic to fish and other aquatic organisms. Precautions must be taken to avoid or minimize spray drift to aquatic areas.

7. Mesurol is highly toxic to bees exposed to direct treatment or residues on crops or blooming weeds. It may not be applied or allowed to drift to crops or weeds when bees are actively visiting the area.

8. All applicable precautions, restrictions, and directions on the registered label must be followed.

9. Residues of the a.i. and its cholinesterase-inhibiting metabolites not exceeding the following levels may enter into interstate commerce: grapes—10 ppm; raisins—20 ppm; raisin waste—50 ppm; and grape pomace—50 ppm. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

10. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by April 1, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: December 9, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-38883 Filed 12-15-80; 8:45]

BILLING CODE 6560-32-M

[PF-208; PH-FRL 1704-5]

Certain Pesticide Chemicals; Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed pesticide petitions with the EPA to establish tolerances and exemptions from the requirement of tolerances for residues or pesticide chemicals and inert ingredients in or on certain raw agricultural commodities.

ADDRESS: Written comments to: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs Environmental Protection Agency, Rm. E-305, 401 M St. SW., Washington D.C. 20460.

Written comments may be submitted while the petition is pending before the agency. The comments are to be identified by the document control number "[PF-208]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby (202-755-2562).

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the agency to establish tolerances and exemptions from the requirement of tolerances for certain pesticide chemicals and inert ingredients in or on certain raw agricultural commodities. This notice is pursuant to the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each specific petition.

PP OF2420. Pennwalt Corp., Three Parkway, Philadelphia, PA 19102 proposes amending 40 CFR 180.371 by establishing a tolerance for residues of the fungicide thiophanate-methyl, dimethyl [(1,2-phenylene)bis(imin-ocarbonothioyl)]bis[carbamate], its oxygen analog dimethyl-4,4'-*o*-phenylene bis (allophanate) and its benzimidazole-containing metabolites (calculated as thiophanate-methyl) in or on the raw agricultural commodity potatoes at 0.05 parts per million (ppm). The proposed analytical method for determining residues is ultraviolet spectrophotometry.

PP OF2384. EM Industries, Inc., 500 Executive Blvd., Elmsford, NY 10523 proposes amending 40 CFR 180.1046 by establishing an exemption from the requirement of a tolerance for the inert ingredient dimethylformamide in or on the following raw agricultural commodities: almonds, apples, apricots, cherries, cucumbers, eggplant, melons, nectarines, peppers, plums, prunes, strawberries, and tomatoes.

PP OF2386. EM Industries, Inc., 500 Executive Blvd., Elmsford, NY 10523 proposes amending 40 CFR 180.1047 by establishing an exemption for the requirement of a tolerance for the inert ingredient N-methylpyrrolidone in or on the following raw agricultural commodities: almonds, apples, apricots, cherries, cucumbers, eggplant, melons, nectarines, peppers, plums, prunes, strawberries, and tomatoes.

PP 1F2429. Uniroyal Chemical, 74 Amity Rd, Bethany, CT 06525 proposes amending 40 CFR 180.301 by establishing tolerances for the combined residues of the fungicide carboxin (5,2-dihydro-2-methyl-1,4-oxathiin-3-carbox-anilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) in or on the following raw agricultural commodities: beans, dry at 0.2 ppm; beans, succulent at 0.2 ppm; and beans, forage, hay, and straw at 0.5 ppm. The proposed analytical method for determining residues is gas chromatography with a mircrocoulometric nitrogen detector. (Sec. 408(d)(1), 68 Stat. 512; (7 U.S.C. 135)).

Dated: December 9, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-38880 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-32-M

[PF-200A; PH-FRL 1704-6]

Union Carbide Co.; Filing of Pesticide Petition; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects a notice of filing that appeared in the Federal Register of October 8, 1980 (45 FR 66893) FR Doc. 80-31328. Pesticide petition OF2346 is corrected to add butyric acid ester and barley.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767),

Office of Pesticide Programs, Environmental Protection Agency, Rm. E–359, 401 M St., SW., Washington, D.C. 20460, (202–756–2196).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of October 8, 1980 (45 FR 66863) FR Doc. 80–31328, that Union Carbide Agricultural Products Co., Inc., 300 Brookside Ave., Ambler, PA 19002 submitted a pesticide petition proposing to amend 40 CFR 180.324 by establishing tolerances for residues of the herbicide bromoxynil (3,5-dibromo-4-hydrocybenzonitrile) from the application of its octanoic acid ester in or on raw agricultural commodities: flax seed; flax straw; meat, fat, meat by-products of cattle, goats, hogs, horses, and sheep; oat grain; oat forage (green); oat straw; rye forage (green); rye straw; and wheat straw at 0.1 part per million (ppm).

Please correct the 2nd column, lines 5 thru 7 to read: ". . . establishing tolerances for residues of the herbicide bromoxynil (3,5-dibomo-4-hydroxybenzonitrile) from the application of its butyric acid ester and/or the octanoic acid ester of bromoxynil in or on the raw agricultural commodities: barley,. . . ."

(Sec. 408(d)(1), 68 Stat. 512; 7 U.S.C. 135)

Date: December 9, 1980.

Douglas D. Campt,

Director, Registration Divison Office of Pesticide Programs.

[FR Doc. 80-38881 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-30-M

[OPTS-51185]

[TSH-FRL 1703-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90. days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of three PMN's and provides a summary of each.

DATES: Written comments by: PMN 80–324, January 12, 1981; PMN 80–325/326, January 16, 1981.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St. SW., Washington, DC 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–221, 401 M St. SW., Washington, DC 20460, (202–426–3980).

SUPPLEMENTAL INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558–Initial) and July 29, 1980 (45 FR 505444–Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use[s] of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51185]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: December 10, 1980.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-324

The following summary is taken from the data submitted by the manufacturer in the PMN.

Close to Review Period. February 11, 1981.

Manufacturer's Identity. Celanese Plastics and Specialties Co., One Riverfront Plaza, Louisville, KY 40202.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Poly allyl ether hydroxy alkyl ester.

Use. Claimed confidential business information. Generic use provided: Chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. (PMN substances in 10% toluene).

Density—0.969 gm/cc.
Acid number—<1.
Viscosity, Gardner Holdt—<A.
Solubility—Insoluble in water; soluble in esters, alcohols, ketones, aromatic hydrocarbons, and aliphatic hydrocarbons.

Toxicity Data

Ames
Salmonella/Microsome Plate test—No mutagenic activity.
Eye irritation (rabbit)—Non-irritant.
Dermal screen (rat)—No deaths at 2 g/kg.
Oral screen (rat)—LD_{50} in progress.

Exposure. The manufacturer states that during manufacture exposure to the substance should be only incidental or accidental. A maximum of 3 workers may be dermally exposed, 2 hours per day, 6 days per year.

Environmental Release/Disposal. The submitter claims that less than 10 kilograms (kg) of the new substance may be released to the environment per year. Disposal of waste will be by landfill.

PMN 80-325

The following summary is taken from the data submitted by the manufacturer in the PMN.

Close of Review Period. February 15, 1981.

Manufacturer's Identity. Milliken & Co., P.O. Box 1926, Spartansburg, SC 29304.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Chromophore substituted poly (oxyethylene).

Use. Claimed confidential business information. No generic use provided.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted on the PMN substance, however, the manufacturer states that LD_{50} of related products, with long production histories, indicate that this substances will also have very low order of toxicity.

Exposure. Claimed confidential information.

Environmental Release/Disposal. Claimed confidential business information.

PMN 80-326

The following summary is taken from the data submitted by the manufacturer in the PMN.

Close of Review Period. February 15, 1981.

Manufacturer's Identity. Milliken & Co., P.O. Box 1926, Spartansburg, SC 29304.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Chromophore substituted poly (oxyethylene).

Use. Claimed confidential business information. No generic use provided.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted on the PMN substance, however, the manufacturer states that LD_{50} of related products, with long production histories, indicate that this substances will also have very low order of toxicity.

Exposure. Claimed confidential information.

Environmental Release/Disposal. Claimed confidential business information.

[FR Doc. 80-38875 Filed 12-15-80; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-51179; TSH-FRL 1602-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments by January 15, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-210, 401 M St., SW., Washington, DC 20460 (202-426-8815).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the Federal Register of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company many manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before January 15, 1981, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St. SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51179]" and the specific PMN number. Comments received may be seen in the above office between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: December 9, 1980.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80–305

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 26, 1981.

Manufacturer's Identity. The Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Elastomeric urethane.

Use. Automotive injection molded parts.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Hardness (Shore)—30D–50D

Tensile strength (psi): at 100% elongation—500–3500; at 300% elongation—1000–5000

Tensile strength (psi)—2500–7000

Elongation percent—650–250

Density g/cc—1.18–1.23

Molecular weight by light scattering based on styrene—75,000–300,000

Toxicity Data. LD_{50} (albino rats)—≤5.0 g/kg.

Exposure

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (unit: ppm)	
		Hours/day	Days/year	Average	Peak
Manufacture: Inhalation, dermal	2	8	25	.....	0–1
Processing: Inhalation, dermal	1	2	25	.....	0–1
Disposal: Inhalation, dermal	1	1	5	.....	0–1

Environmental Release/Disposal. The manufacturer states that 10–100 kilograms (kg) of the substance may be released to the environment per year and that solid elastomeric urethane waste will be disposed in a sanitary landfill via a licensed commercial carting service.

PMN 80–306

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 27, 1981.

Manufacturer's Identity. Spencer Kellog, Div. of Textron, Inc., 120 Delaware Ave., Buffalo, NY 14225.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Urea/carbamate lacquer.

Use. Claimed confidential business information. Generic information provided: The new chemical substance will be used in a dispersive use that will release more than 50 but less than 5,000 kg to the environment per year.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Flash point—None

1Weight/gallon—8.82 lb.

Specific gravity 25/25°C—1.06.

Viscosity at 25°C—2–20 Stokes.

pH at 25°C—8.5–8.8.

Non-volatile—31%.

Solvent—Water/*N*-methyl pyrrolidone.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that 4 workers may be exposed dermally during the manufacturing process, 4 hours a day, 183 days a year.

Environmental Release/Disposal. The submitter states that there will be no environmental release of the new substance; that the only waste generated consists of samples for quality control and possible off-specification material which are then collected and disposed of in authorized facilities by incineration or in secure landfill.

[FR Doc. 80–38876 Filed 12–15–80; 8:45 am]

BILLING CODE 6560–31–M

[OPTS–51183; TSH-FRL 1704–7]

Polymer of an Alkyl Acrylate, an Alkyl Methacrylate, and a Saturated Cyclic Methacrylate; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires

any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by January 11, 1981.

ADDRESS: Written comments to: Documents Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, DC 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: David Dull, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St., SW., Washington, DC 20460, (202–426–2601).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the Federal Register of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before January 11, 1981, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51183]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: December 9, 1980.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80–321.

The following summary is taken from the data submitted by the manufacturer in the PMN.

Close of Review Period. February 10, 1981.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—In excess of $500 million.

Manufacturing site—East-south central U.S.

Standard Industrial Classification Code—282, "Plastic Materials and Synthetic Resins".

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of an alkyl acrylate, an alkyl methacrylate, and a saturated cyclic methacrylate.

Use. Claimed confidential business information. Generic information provided: The manufacturer states that the new substance will be handled in bulk by industrial workers in an open use where there will be very low potential for exposure and that consumers will have essentially no exposure to the new polymeric substance.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

pH—1.5 to 3.5
Density at 25° C—1.02
Brookfield viscosity—<150 cps
Average molecular—500,000 to 1,000,000

Toxicity Data

Acute oral LD_{50} (rat)—>5 g/kg
Acute dermal LD_{50} (rabbit)—>5 g/kg
Acute eye irritation (rabbit)—Moderate irritant
Acute dermal irritation (rabbit)—Slight irritant
Acute LC_{50} (rainbow trout)—>1,000 parts per million (ppm)

Acute LC_{50} (bluegill sunfish)—>1,000 ppm

Mutagen Assay (Ames)—Non-mutagenic with and without activation

Exposure

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentrations	
		Hours/day	Days/year	Average	Peak
Manufacture (2 sites): Skin, eye	8	8	22	Nonvolatile substance.	
Processing (3 sites): Skin, eye	15	8	22–100	Nonvolatile substance.	

Environmental Release/Disposal. The manufacturer states that there will be no environmental release of the new substance except in case of accidental spills. Spills will be flushed with water to catch basin; solids will be coagulated, collected and discharged to an approved landfill.

[FR Doc. 80-38877 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-31-M

[PP OG2289/T252A; PH-FRL 1704-2]

Thiophanate-Methyl; Establishment of a Temporary Tolerance; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects a document that published in the **Federal Register** of August 12, 1980 (45 FR 53568) FR Doc. 80–24209. The chemical name appeared incorrectly.

FOR FURTHER INFORMATION CONTACT: John A. Richards, Federal Register Staff (TS–788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. EB–42, 401 M St., SW., Washington, D.C. 20460, (202–426–2432).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of August 12, 1980 (45 FR 53568), that a temporary tolerance had been established for residues of the fungicide thiophanate-methyl. The chemical name was incorrectly printed in the 5th and 27th lines. correct the document to read: " * * * established temporary tolerances for residues of the fungicide thiophanate-methyl, dimethyl [(1,2-phenylene)bisiminocarbonothioyl)]bis [carbamate]; its oxygen analog dimethyl-4,4'-o-phenylene bis (allophanate) and its benzimidazole-containing metabolites calculated as thiophanate-methyl) * * *"

Dated: December 9, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-38878 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-C31041; PH-FRL 1704-4]

Zoecon Corp.; Approval of Application To Conditionally Register a Pesticide Product Entailing a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces approval of an application to conditionally register the pesticide product APEX 5E which contains the active ingredient methoprene (isopropyl (*E,E*)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate). The application proposes that the use pattern be changed for use on mushroom culture to prevent the emergence of adult sciarid flies.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–341, 401 M St., SW., Washington, D.C. 20460 (202–755–1150).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of October 2, 1979 (44 FR 56739) that Zoecon Corp., 975 California Ave., Palo Alto, CA 94304 had received approval for use of a pesticide product containing the active ingredient methoprene (isopropyl (*E,E*)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate).

A permanent tolerance has been established for methoprene (40 CFR 180.359) at 1 part per million. This approval of the application to conditionally register the pesticide product is being issued in conjunction with this permanent tolerance.

The application was approved on October 8, 1980, and assigned the EPA Registration No. 20954–89.

A copy of the approved label and list of data references used to support registration are available for public inspection in the product manager's office. The data and other scientific information used to support registration, except for material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, 92 Stat 819; (7 U.S.C. 136), are available for public inspection in accordance with section 3(c)(2) of FIFRA. Requests for data must be made in accordance with provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, at the address above. Such requests should: (1) Identify the product by name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(4), 86 Stat. 972; (7 U.S.C. 136a))

Dated: December 9, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-38879 Filed 12-15-80; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–635–DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of California (FEMA–635–DR), dated November 27, 1980, and related determinations.

DATED: November 27, 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: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of November 27, 1980, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of California resulting from major fires and high winds,

beginning on or about November 15, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, the Federal Government will provide 75 percent of all eligible public assistance under PL 93–288 in designated areas with the exception of technical assistance, which will be funded at 100 percent.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. F. Scott Martin of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster and to be eligible for Individual Assistance and Public Assistance:
Los Angeles
Orange
San Bernardino
Riverside

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-38869 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

[FEMA-634-DR]

Commonwealth of the Northern Mariana Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of the Northern Mariana Islands (FEMA–634–DR), dated November 27, 1980, and related determinations.

DATED: November 27, 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: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of November 27, 1980, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the Commonwealth of the Northern Mariana Islands resulting from Typhoon Dinah, beginning about November 23, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the Commonwealth of the Northern Mariana Islands.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, funds provided under Pub. L. 93–288 will be 75 percent of all eligible public assistance costs in designated areas with the exception of technical assistance, which will be funded at 100 percent.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine that Island of Saipan to have been affected adversely by this declared major disaster and to be eligible for Individual Assistance and Public Assistance.

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83 300 Disaster Assistance)

[FR Doc. 80-38868 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-03-M

Privacy Act of 1974; Proposed New System of Records

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed new system of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Federal Emergency Management Agency gives notice of the proposed new system of records, FEMA/GOV'T–1, Uniform Identification System for Federal Employees Performing Essential Duties During Emergencies.

A new system report has been filed with the Office of Management and Budget, the Speaker of the House of Representatives and the President of the Senate. The Office of Management and Budget has been requested to waive the advance notice requirement.

DATE: The proposed new system of records shall be effective as proposed without further notice, January 15, 1981, unless the waiver is not approved or comments are received on or before that date which would result in a contrary determination. If the waiver is not approved or comments are received January 15, 1981, which would result in a contrary determination, FEMA will publish such notice at that time. Any interested party may submit written comments regarding this proposal.

ADDRESS: Address comments to the Federal Emergency Management Agency, Attn: Privacy Act Officer, Rm. 807, 1725 I Street, N.W., Washington, D.C. 20472. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday (except from legal holidays).

FOR FURTHER INFORMATION CONTACT: Linda Keener at (202) 634–6772.

SUPPLEMENTARY INFORMATION: On June 26, 1980, the Federal Emergency Management Agency issued a regulation, 44 CFR Part 311, which establishes a uniform identification

system for Federal Employees who are to perform essential duties during emergencies. The purpose of the proposed system is designed to provide coverage under the Privacy Act for the Departments and agencies which will be implementing the uniform identification system for FEMA. This notice is intended to cover each Department and agency which is authorized to issue FEMA emergency identification cards to Federal employees who are to perform essential duties during emergencies. To the extent that the Departments and agencies are maintaining such records in accordance with the proposed system, no further notice is required by those Departments and agencies.

An emergency identification card will be issued directly to those Federal employees who are to perform essential duties in order that State and local civil defense authorities and law enforcement authorities can readily recognize such Federal employees and allow them access to otherwise restricted areas so the employees can carry out their responsibilities. We believe that failure to implement such a system could cause delays of Federal employees in effectively carrying out their emergency assignment and could result in unnecessary loss of life and property.

Dated: December 9, 1980.

Bill Combs,

Director, Office of Public Affairs, Federal Emergency Management Agency.

FEMA/GOV'T-1

SYSTEM NAME:

Uniform Identification System for Federal Employees Performing Essential Duties During Emergencies.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are located at the Personnel Office or designated office of the local installation of the Department or Agency which currently employs the individual.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Only active Federal employees who have been assigned emergency duties for the Federal Government following the declaration of an emergency due to an expected attack on the United States or a natural or man-caused disaster occurs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The identification card will be provided directly to the employee who is assigned emergency duties. The card will include a photograph of the individual, individual's name, signature and emergency function, date of birth, height, weight, color of hair, color of eyes, and blood type. Each department, agency, or official authorized to issue the emergency identification card is responsible for maintaining the following information for the Federal Emergency Management Agency: (1) the number of cards issued and outstanding to Federal employees; (2) the card numbers and names of personnel to whom the cards have been issued; (3) the total number of cards recalled and in safekeeping; (4) the total number of cards destroyed; (5) the total number of cards lost or unaccounted for; (5) the total number of cards available for issue; (6) regaining possession of an destroying the emergency identification card from personnel whose employment with the issuing agency has ceases; and (7) providing FEMA with copies of any directives published to implement the provisions of issuing emergency identification cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 201, 204, and 407 of the Federal Civil Defense Act of 1950, as amended; 50 U.S.C. App. 2251 et seq.; Reorganization Plan Number 3 of 1978, 43 FR 41943; and Executive Order 12148 of July 20, 1979, 44 FR 43239.

PURPOSE(S):

Upon an attack on the United States, or upon a declaration by the President or the Congress, or by a Federal Government official duly authorized by the President or the Congress, that an emergency situation exists due to an expected attack on the United States or a natural or man-caused disaster occurs, or is expected within the United States, Federal employees, who have been assigned emergency duty functions, are expected to be in need of freedom of movement in order to report for and carry out their emergency assignments. To facilitate such mobility and freedom of movement, a uniform means of identification is required to enable State and local civil defense authorities and law enforcement officials to readily recognize such Federal employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Each department, agency, or official authorized to issue the emergency identification card is responsible for maintaining the seven items of information listed under the categories of records in the system for FEMA and reporting this type of information back to FEMA for the purpose of maintaining a control over the number of emergency identification cards issued, to whom they are issued, for what purpose, and maintaining statistical information to State and local civil defense authorities and law enforcement officials to readily recognize Federal employees who have been assigned emergency duties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on lists and forms, and in computer processible storage media.

RETRIEVABILITY:

By name of the Federal employee or FEMA emergency identification card number.

SAFEGUARDS:

These records are located in lockable metal file cabinets or in secured rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

Emergency identification cards will be issued for a period not to exceed five years. An annual review of the assignment of all personnel to whom such cards have been issued will be made. If the person no longer requires the assignment, the card will be recalled and the card number may be reassigned to another individual, or destroyed be burning or shredding. The card will be recalled at any time when the emergency assignments are withdrawn or the employee leaves the government service.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Finance and Administration, Federal Emergency Management Agency, will maintain records of card numbers issued to each Department of Agency authorized to issue the identification card for FEMA. The Departments or Agencies will maintain their own records of individuals to whom the identification cards have been issued. The Director, Office of Finance and Administration, Federal Emergency Management Agency, 1725 I Street, NW., Washington, D.C. 20472 is the appropriate address for records maintained by FEMA.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains

information about them should contact the Department or Agency which currently employs the individual.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in this system should direct their request to the Department or Agency which currently employs the individual.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register**. When requesting records maintained by a Department or agency, the individual must also comply with the Privacy Act regulations of that Department or agency.

RECORD SOURCE CATEGORIES:

Subject individuals, current supervisors who determine the need for issuance of an emergency identification card because of nature of emergency assignment.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-38944 Filed 12-15-80; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

NUCLEAR REGULATORY COMMISSION

Memoranda of Understanding Between Federal Emergency Management Agency and Nuclear Regulatory Commission

The Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) have entered into a Memorandum of Understanding for incident response and they have also entered into a new Memorandum of Understanding relating to Radiological Emergency Planning and Preparedness. The latter memorandum supersedes a memorandum entered into January 14, 1980 (45 FR 5847).

The text of these Memoranda is set out below except that an attachment to the Radiological Emergency Planning and Preparedness Memorandum is not included. This attachment concerns membership on a steering committee.

For Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

For Federal Emergency Management Agency.

George Jett,

General Counsel.

Memorandum of Understanding Between NRC and FEMA Relating to Radiological Emergency Planning and Preparedness

I. Background and Purpose

This Memorandum of Understanding establishes a framework of cooperation between the Federal Emergency Management Agency (FEMA) and the Nuclear Regulatory Commission (NRC) in radiological emergency response planning matters, so that their mutual efforts will be directed toward more effective plans and related preparedness measures at and in the vicinity of nuclear reactors, fuel cycle facilities which are subject to 10 CFR Part 50, Appendix E, and certain other fuel cycle and materials licensees which have potential for significant accidental offsite radiological releases. The memorandum is responsive to the President's decision of December 7, 1979, that FEMA will take the lead in offsite planning and response, his request that NRC assist FEMA in carrying out this role, and the NRC's continuing statutory responsibility for the radiological health and safety of the public.

A separate memorandum has been negotiated to cover NRC/FEMA cooperation and responsibilities in response to an actual emergency including public information activities. In addition, an agreement was also reached between the NRC and FEMA on September 11, 1979, that chairmanship of the Federal Interagency Central Coordinating Committee (now the Federal Radiological Preparedness Coordinating Committee) should be transferred from NRC to FEMA. This agreement was transmitted to other Federal agencies by a joint letter from the Chairman of the NRC and the Director of FEMA. The NRC and FEMA also agreed in principle on September 11, 1979, to the idea of joint participation in the review, assessment and concurrence with regard to State and local emergency response plans. On January 14, 1980, the two agencies entered into a "Memorandum of Understanding Between NRC and FEMA to Accomplish a Prompt Improvement In Radiological Emergency Preparedness" that was responsive to the President's December 7, 1979 statement and was a framework for implementing the September 11, 1979 agreement. According to that memorandum of understanding, FEMA coordinates all Federal planning and takes the lead for developing a program for assessing State and local emergency response plans in all elements of offsite radiological emergency planning, and for making findings and determinations as to the adequacy and capability of implementing State and local plans, and to make those findings and determinations available to NRC. The NRC reviews those FEMA findings and determinations for the purpose of making determinations on the overall state of emergency preparedness for issuance of licenses or shutdown of operating reactors. That arrangement makes the FEMA staff responsible for evaluating the adequacy of State and local plans and for assuring that the plans are capable of implementation on a continuing basis, and therefore substantially avoids duplicative efforts by NRC staff. This memorandum of understanding builds upon the relationship that has been developing between the two agencies and supersedes the January 14, 1980 memorandum.

II. Authorities and Responsibilities

FEMA—Executive Order 12148 charges the Director, FEMA, with establishing policy for and coordinating all civil emergency planning and assistance functions for Executive agencies (Section 2–101). It also provides that "The Director shall represent the President in working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness mitigation, response, and recovery programs." (Section 2–104).

On December 7, 1979, the President, in response to the recommendations of the Kemeny Commission on the accident at Three Mile Island, directed that FEMA assume lead responsibility for all offsite nuclear emergency planning and response.

Specifically, the FEMA responsibilities with respect to emergency preparedness as they relate to NRC are:

1. To take the lead in offsite emergency planning and review and assess State and local emergency plans for adequacy.

2. To review State and local emergency plans in those States affected by operating reactors (report submitted to the President in June 1980).

3. To complete, as soon as possible, the review of State and local emergency plans in those States affected by plants scheduled for operation in the near future.

4. To make findings and determinations as to whether State and local emergency plans are adequate and capable of implementation (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications and equipment adequacy). Notwithstanding the procedures which may be set forth in 44 CFR 350 for requesting and reaching a FEMA administrative approval of State and local plans, findings and determinations on the current status of emergency preparedness around particular sites may be requested by the NRC through the NRC/FEMA Steering Committee and provided by FEMA for use as needed in the NRC licensing process. These findings and determinations may be based upon plans currently available to FEMA or furnished to FEMA by the NRC.

5. To assume responsibility for emergency preparedness training of State and local officials.

6. To develop and issue an updated series of interagency assignments which would delineate respective agency capabilities and responsibilities and define procedures for coordination and direction for emergency planning and response.

NRC—The Atomic Energy Act of 1954, as amended, requires that the NRC grant licenses only if the health and safety of the public is adequately protected. While the Atomic Energy Act does not specifically require emergency plans and related preparedness measures, the NRC had required consideration of overall emergency preparedness as a part of the licensing process.

10 CFR 50.33, 50.34, 50.47, 50.54, and Appendix E to 10 CFR Part 50 include requirements for the licensee emergency plans. In a **Federal Register** Notice dated December 24, 1975, entitled "Radiological Incident Emergency Response Planning: Fixed Facilities and Transportation" (40 FR 59494), the Federal Preparedness Agency, a predecessor of FEMA, outlined responsibilities of various Federal agencies in providing assistance to State and local governments in their radiological emergency response planning. Both FEMA and NRC recognize that the these responsibilities have been reevaluated and this will be reflected in the reissuance of that **Federal Register** Notice.

Specifically, the NRC responsibilities for emergency preparedness are:

1. To assess licensee emergency plans for adequacy.

2. To verify that licensee emergency plans are adequately implemented (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications and equipment adequacy).

3. To review the FEMA findings and determinations on the adequacy and capability of implementation of State and local plans.

4. To make decisions with regard to the overall state of emergency preparedness (i.e., integration of emergency preparedness onsite as determined by the NRC and offiste as determined by FEMA and reviewed by NRC) and issuance of operating licenses or shut down of operating reactors.

III. Areas of Cooperation

A. NRC Licensing Reviews

FEMA will provide support for NRC reactor, fuel facility and material licensing reviews, as requested, with regard to the assessment of the adequacy of State and local response plans for accidental radiological releases. This will include timely submittal of an evaluation suitable for inclusion in NRC safety evaluation reports.

Substantially prior to the time that a FEMA evaluation is required with regard to fuel facility and material license review, NRC will identify those fuel and material licensees with potential for significant accidental offsite radiological releases and for those NRC will submit to FEMA the emergency plans as they are completed.

FEMA routine support will include providing assessments of State and local plans related to reactor Construction Permit and Operating License reviews and continuing assessments of State and local plans during the facility lifetime. To support its findings and determinations, FEMA will make expert witnesses available before the Commission, the NRC Advisory Committee on Reactor Safeguards, NRC hearing boards and administrative law judges, any court actions, and during any related discovery proceedings. Nothing in this document shall be construed in any way to diminish NRC's responsibility for protecting the radiological health and safety of the public.

B. FEMA Review of State and Local Plans

NRC will assist in the development and review of State and local plans through its membership on the Regional Assistance Committees. FEMA will chair the Regional Assistance Committees. Consistant with NRC's statutory responsibility, NRC will recognize FEMA as the interface with State and local governments for interpreting radiological emergency preparedness criteria as it affects those governments and for reporting the results of any evaluation of State and local governments' emergency preparedness to those governments.

Where questions arise concerning the interpretation of the criteria, such questions will continue to be referred to FEMA headquarters, and when appropriate to the NRC/FEMA Steering Committee to assure uniform interpretation.

C. Evaluation of Exercises

FEMA and NRC will cooperate in determining exercise requirements for joint licensee, State, local and Federal agencies and will jointly observe and evaluate such exercises. NRC and FEMA will also jointly agree upon a set of exercise scenarios from which the scenario for a particular exercise may be selected.

D. Emergency Preparedness Guidance

NRC has lead responsibility for the development of emergency preparedness guidance for licensees. FEMA has lead responsibility for the development of emergency preparedness guidance for State and local agencies.

NRC and FEMA recognize the need for an integrated assessment of the degree of emergency preparedness by NRC licensees and State and local governments. NRC and FEMA will each, therefore, provide opportunity for the other agency to review and comment on emergency preparedness guidance prior to adoption as formal agency guidance.

E. Support for Automated Information Retrieval Systems

FEMA and NRC will each provide the other with continued access to those automatic data processing support systems which contain emergency preparedness data developed and/or utilized during the transition period.

At NRC this includes Automated Information Retrieval System (AIReS) support to the extent that it does not affect duplication or records retention. At FEMA this includes technical support to the Radiological Emergency Preparedness Management Information System. This agreement is not intended to include the automated information retrieval support for the national level emergency response facilities.

F. Ongoing NRC Programs

Ongoing NRC and FEMA research and development programs that are related to State and local emergency planning and preparedness will be coordinated.

G. Public Information Programs

FEMA will take the lead in developing public information programs. NRC will assist FEMA by reviewing for accuracy educational materials concerning radiation and its hazards and information regarding appropriate actions to be taken by the general public in the event of an accident involving radioactive materials. Public information activities will be addressed in the MOU dealing with response to actual emergencies.

IV. Near-Term Cooperative Measures

In order to achieve a prompt improvement in the state of emergency preparedness at and around nuclear power facilities, and because of the need for an integrated assessment of the degree of preparedness, FEMA and NRC recognize the need for an especially close working relationship.

The NRC/FEMA Steering Committee on Emergency Preparedness will be the focal point for coordination of emergency preparedness and response activities between the two agencies. The Steering Committee will consist of an equal number of members to represent each agency with one vote per agency. Where the Steering Committee cannot agree on the resolution of an issue, the issue will be referred to NRC and FEMA management. The NRC members will have lead rsponsibility for licensee preparedness and the FEMA members will have lead responsibility for State and local preparedness. The Steering Committee will coordinate the preparedness evaluation activities and develop upgraded acceptance criteria for licensee, State, and local emergency preparedness. NRC and FEMA will then consider and adopt criteria, as appropriate, in their respective jurisdictions. (See Attachment 1.)

V. Working Arrangements

A. The normal point of contact for implementation of the points in this Memorandum will be the NRC/FEMA Steering Committee.

B. The Steering Committee will establish the day-to-day procedures for assuring that the arrangements of this Memorandum are carried out.

VI. Memorandum of Understanding

A. This Memorandum of Understanding shall be effective as of November 1, 1980, and shall continue in effect unless terminated by either party upon 30 days' notice in writing.

B. Amendments or modifications to this Memorandum of Understanding may be made upon written agreement by both parties to the memorandum.

Approved for the U.S. Nuclear Regulatory Commission.

Dated: November 3, 1980.

William J. Dircks,

Executive Director for Operations.

Approved for the U.S. Federal Emergency Management Agency.

Dated: November 4, 1980.

Frank A. Camm,

Associate Director for Plans and Preparedness.

Memorandum of Understanding Between the Federal Emergency Management Agency and the Nuclear Regulatory Commission for Incident Response

I. Introduction

This Memorandum of Understanding (MOU) is in recognition of the need expressed by the President's Commission on the Accident at Three Mile Island that Federal emergency support in any future accidents at nuclear power plants be better coordinated. It was also agreed in the January 14, 1980, MOU between Nuclear Regulatory Commission (NRC) and Federal Emergency Management Agency (FEMA) on the subject of prompt improvement in radiological emergency planning and preparedness, that a separate MOU would be negotiated covering NRC/FEMA cooperation and responsibilities in response to an actual emergency.

II. Purpose

This Memorandum of Understanding is to define the relationships between FEMA and NRC in connection with response to a potential or actual radiological emergency. The MOU focuses on the assistance that FEMA and NRC can provide to each other in carrying out responsibilities for the health and safety of the public.

III. Authorities and Responsibilities

FEMA was established by Reorganization Plan No. 3 of 1978 and placed into effect by Executive Orders 12127 of March 31, 1979 (44 FR 19367) and 12148 of July 20, 1979 (44 FR 43239) in order to create a single point of management for the emergency planning and response activities of the Federal Government.

Executive Order 12148 charges the Director, FEMA, with establishing policy for and coordinating all civil emergency planning and assistance functions for Executive agencies (section 2–101). It also provides that civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies (section 2–202).

On December 7, 1979, the President, in response to the recommendations of the Kemeny Commission on the accident at Three Mile Island, directed that FEMA assume lead responsibilities for all off-site nuclear emergency planning and response.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, the NRC has the authority and responsibility for licensing and regulating, among others, nuclear power reactors in order to protect the health and safety of the public from radiation hazards. To meet its statutory responsibility for protecting the public health and safety from radiation hazards, the NRC will respond promptly and effectively to radiological emergencies.

IV. Agency Roles

The NRC and FEMA officials will work in tandem both on- and off-site. NRC will have the lead on-site and in matters relating to assessment of hazards and recommendations for protective actions. FEMA will have the lead in the off-site Federal response role. These roles are complementary and require constant communications and mutual support. Such a cooperative structure will extend to the NRC and FEMA relations with State and local officials. Based on each agency's specific authority, responsibilities and the public's needs in an emergency situation, the roles of each agency in a radiological emergency are complementary and enumerated as follows:

A. NRC—NRC will maintain a readiness to function in a variety of roles. Within each of these roles, a spectrum of actions can be accomplished.

1. *Notification.* NRC will notify FEMA, as quickly as possible, whenever a radiological emergency occurs or whenever there is a high potential for such an occurrence.

2. *Monitor the Incident.* NRC will verify and evaluate data from multiple sources to assure that appropriate operational measures are being taken, and assure that adequate information and recommendations are being provided to off-site agencies so that appropriate protective actions may be taken. NRC will also monitor these protective actions.

3. *Advise Other Government Entities.* Provide technical assessment of on-site radiological conditions and of the physical condition of the facility to the appropriate State and local government

officials as well as to FEMA and other Federal agencies.

Advise FEMA of any NRC or licensee recommendations for off-site protective actions. Work with FEMA representatives to establish a cooperative relationship with State and local officials including the Governors of the affected States.

Advise FEMA, State, local and other Federal government officials, of any operational decisions or actions being taken by the licensee or the NRC which may affect the off-site protective actions.

NRC should prepare appropriate recommendations for protective actions, for State and local officials, including the governors and local chief executives. Such recommendations should reflect all substantive dissenting views from other Federal agencies and should be presented jointly with FEMA. Direct contact is expected if imminent peril to the public health and safety exists and time does not permit a coordinated recommendation.

4. *Disseminate Technical Information.* In coordination with licensee, NRC will provide technical information regarding the radiological conditions on-site and around the nuclear facility and regarding the physical condition of the facility to the White House, FEMA, other Federal agencies, Congress, news media and general public. The NRC will also provide specific technical assessments to FEMA for its use in coordinating off-site response activities.

B. FEMA—FEMA will have the following roles in coordinating the Federal response and in support of NRC in its technical mission during a radiological emergency.

1. *Notification.* Receive emergency notification from NRC that a radiological incident has occurred.

2. *Monitor.* Receive the technical advisories of the NRC regarding the radiological conditions at and around the affected site and the physical conditions of a facility. Keep other Federal organizations with support roles advised of the situation.

3. *Advise.* Keep the Governor and his appointed representative as well as local Government officials informed of the status of Federal assistance being provided and that is available.

4. *Coordination and Support.* Provide and coordinate Federal response to assist NRC in carrying out its technical role. Coordinate response with State and local officials in connection with potential response activities associated with radiological emergencies. Coordinate Federal support to assist State and local officials when a decision is made to take protective action.

5. *Dissemination of Information.* FEMA will be responsible for the dissemination of information concerning offsite support activities to the White House, other Federal agencies, Congress, news media, and general public.

V. Emergency Response

A. *Criteria for Notification.* NRC will notify FEMA whenever a radiological emergency occurs or there is a high potential for such occurrence; i.e. whenever the NRC makes a decision to activate the Executive Management Team (EMT). FEMA will notify NRC if it becomes aware of an occurrence through the activity of its Operations Center.

B. *Exchange of Personnel During an Emergency.* As early as possible upon activation of the NRC Operations Center, NRC will consult with FEMA to determine whether each agency should have a representative stationed at the the other's Operations Center.

C. *Communications.*

1. NRC and FEMA recognize the need for mutual communications support and interface capability, particularly in the areas of emergency notification and response coordination. The two agencies agree to periodically evaluate their respective communications capabilities to maintain compatability for effective and efficient communications at national, regional and local deployment levels. Communications liasion between the agencies will continue to identify interface/mutual support communications opportunities, to develop appropriate procedures for implementation of agreed-on courses of action, and will develop interagency emergency communications operational procedures.

2. FEMA authorizes NRC to enter the Civil Defense National Radio System (CDNARS) for relaying emergency information. NRC will notify the FEMA Operations Center (DR&R) when it needs to enter the CDNARS network. The FEMA Regional Center responsible for the geographical area in which NRC desires to operate will exercise net control functions. The primary transmission method will be by voice. NRC will reimburse FEMA for additional personnel costs incurred in the provision of NRC-requested service. NRC will acquire, at its own expense, equipment compatible with CDNARS.

3. FEMA agrees in the event of a nuclear incident, to permit NRC and all licensed fixed nuclear facilities access to the National Warning System (NAWAS), and any other warning networks which FEMA currently has available or may develop in the future. Specific details and justification for the needed access will be provided to FEMA by NRC. The use of NAWAS will be subject to FEMA criteria. FEMA will not be liable for additional costs involved.

D. *Participation in Exercises.* FEMA and NRC will participate, in periodic exercises. Such exercises may involve FEMA/NRC Headquarters and/or Regional offices, licensee and State and local government participation. Each agency will fund its participation in these exercises. If any significant costs are anticipated, discussions concerning each agency's participation will be held at least 30 days before such an exercise. FEMA and NRC will also participate in periodic communication checks.

E. *Off-Site Collocation.* The NRC Dirctor of site operations will be located at the near-site emergency operations facility designated by a licensee. FEMA will assign at least one representative to this location to assure that FEMA and NRC activities are coordinated and that there is an effective information exchange.

VI. Public Affairs

NRC and FEMA agree that, where practicable, public announcements by the two agencies on emergencies will be coordinated. NRC announcements and public statements will deal with radiological conditions on-site and around the nuclear facility and the physical condition of the facility. Public statements by FEMA will deal with information concerning off-site response activities. Both agencies agree to work closely with the Governor's office in issuing public statements.

VII. Terms of Agreement

A. This Memorandum of Understanding shall take effect when signed by both parties and shall endure until terminated by one of the parties. Participation in this agreement may be terminated by either party following 30 days advance written notice to the other party.

B. Modifications to this Memorandum of Understanding may be made by written agreement of both parties.

C. It is recognized that the National Contingency Plan mandated in the NRC Appropriation Authorization (Pub. L. 96-295, June 30, 1980) will bear directly on the provisions of this Memorandum of Understanding and result in this agreement being superseded or modified.

D. In the event that an emergency or a major disaster is declared by the President pursuant to the provisions of the Disaster Relief Act of 1974, it is

understood that FEMA will not issue any directives to the NRC, or make requests for assistance from the NRC under such Act which would impede or interfere with NRC's ability to meet its statutory responsibilities under the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974.

E. The effective date of this agreement is October 22, 1980.

For the Nuclear Regulatory Commission.

John F. Ahearne,

Chairman, Nuclear Regulatory Commission.

For the Federal Emergency Management Agency.

John W. Macy, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 80-38980 Filed 12-15-80; 8:45 am]

BILLING CODE 7590-01-M and 6718-01-M

FEDERAL RESERVE SYSTEM

Chippewa Valley Agency, Ltd.; Proposed Retention of General Insurance Agency Activities

Chippewa Valley Agency, Ltd., Winter, Wisconsin, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance agency activities in a community with a population of less than 5,000, through its division, Winter Insurance Agency, Winter, Wisconsin. These activities would be performed from offices of Applicant's division in Winter, Wisconsin, and the geographic areas to be served are Winter, Ojibwa, Draper, Loretta, Oxbo, and the Southern half of Sawyer County. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

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 outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 26, 1980.

Board of Governors of the Federal Reserve System, December 11, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-39021 Filed 12-15-80; 8:45 am]

BILLING CODE 6210-01-M

North Holding Company, Inc.; Formation of Bank Holding Company

North Holding Co., Inc., Neillsville, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Neillsville Bank, Neillsville, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 11, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-39020 Filed 12-15-80; 8:45 am]

BILLING CODE 6210-01-M

Planters Holding Co.; Formation of Bank Holding Company

Planters Holding Company, Indianola, Mississippi, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Planters Bank & Trust Company, Ruleville, Mississippi. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 31, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 11, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-39019 Filed 12-15-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; 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 § 225.4(b)(1) of the Board's Regulation Y (12 CFR 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 requesfs 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 January 9, 1981.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (commercial lending and leasing activities; New York State): to engage through two *de novo* offices of Citicorp Industrial Credit, Inc. in making or acquiring, for its own account or for the account of others, commercial loans and other extensions of credit as would be made by a commercial finance company; and leasing personal or real property or acting as agent, broker, or advisor in leasing such property and servicing such leases, subject to all of the qualifications specified in 12 CFR 225.4(a)(6) (a) and (b), where the leases serve as the functional equivalent of an extension of credit to the lessee of the property. Such activities would be conducted from two offices in New York, New York serving the State of New York.

B. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Maryland National Corporation, Baltimore, Maryland (leasing, financing and insurance activities; Arkansas, Louisiana, Texas and New Mexico): to engage through its subsidiary, Maryland National Leasing Corporation, in leasing personal property (including, but not limited to, the leasing of various types of equipment, machinery, vehicles, transportation equipment, and data processing equipment, and including conditional sales contracts and chattel mortgages) where the lease is the functional equivalent of an extension of credit; originating personal property leases or principal or agent; buying, selling and otherwise dealing in personal property lease contracts as principal or agent; acting as advisor in personal property leasing transactions; engaging in the sale, as agent or broker, of insurance similar in form and intent to credit life and or/mortgage redemption insurance; engaging in commercial lending operations, including, but not limited to, secured and unsecured commercial loans and other extensions of credit to commercial enterprises; and acting as advisor or broker in commercial lending transactions, at an office in Dallas, Texas, serving Arkansas, Louisiana, Oklahoma, Texas and New Mexico.

2. Maryland National Corporation, Baltimore, Maryland (finance and leasing activities; Maryland): to engage, through its subsidiary, Maryland National Leasing Corporation, in commercial lending operations, including but not limited to, secured and unsecured commercial loans and other extensions of credit to commercial enterprises; and acting as advisor or broker in commercial lending transactions. These activities would be conducted from offices in Towson and Baltimore, Maryland, serving the State of Maryland.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, December 10, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38996 Filed 12-15-80; 8:45 am]

BILLING CODE 6210-01-M

Sahara Bancorp, Inc.; Formation of Bank Holding Company

Sahara Bancorp, Inc., New Brighton, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 82 per cent or more of the voting shares of First State Bank of New Brighton, New Brighton, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 5, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 10, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38995 Filed 12-15-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Line of Business Reports Program; Adoption of Supplemental Interim Confidentiality Procedure Applicable to 1973–1976 LB Reports

AGENCY: Federal Trade Commission.

ACTION: Adoption of Supplemental Interim Procedure for 1973–1976 LB Reports.

SUMMARY: On August 27, 1980 (45 FR 57230), the Federal Trade Commission published a notice adopting confidentiality rules and procedures for 1977 Line of Business (LB) Reports, and proposing to adopt the same rules and procedures for past and future years' LB Reports. As an interim measure, the Commission hereby adopts, with modifications, one portion of the rules and procedures adopted for 1977 LB Reports so as to give the General Counsel and his or her staff and Commissioners and their assistants access to individual companies' LB Reports for 1973–76 and to other LB program information for purposes of pending or anticipated litigation involving the LB program and for administration of the confidentiality rules and procedures. This provison will take effect as soon as it is published.

ADDRESS: Although the provision will be immediately effective, the Commission will receive comments and take whatever action it deems appropriate in light of the comments. Any comments should be addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments wil be entered on the public record in Room 130 at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joanne L. Levine or David C. Shonka, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, Telephone (202) 523–3800, or (202) 523–3786, respectively. For information on other aspects of the LB program, please call (202) 254–8170.

SUPPLEMENTARY INFORMATION: Confidentiality rules and procedures for previous years' LB reports are published as follows: 1973 LB Reports—39 FR 30970 (1974); 1974 LB reports—40 FR 21542 (1975); 1975/1976 LB Reports—41 FR 28041, 34703 (1976). A designation of sworn officers and employees who may have access to individual company LB information is published at 45 FR 36338, 36340 (1980). Those rules and designations permitted access to the Office of the General Counsel and to Commissioners and their assistants in

connection with a reporting company's failure to file an adequate LB report.

However, the confidentiality rules adopted for 1977, and proposed for 1973–76 and post-1977 LB Reports, enlarged the reasons for which the General Counsel and his or her staff may have access to LB Reports to include access "in connection with matters directly related to pending or anticipated litigation concerning the LB Program, or to administration of" the confidentiality rules. 45 FR 57230, 57235. Because the Commission has allowed 60 days for comments, this and other proposed revisions to the 1973–76 confidentiality rules have not yet become effective.

The notice explained the reason for this access:

> Access to LB Reports may be necessary primarily to assess what has been or may be done with those reports, rather than for direct use of LB data supplied by a particular Reporting Company. The General Counsel is the Commission's legal representative and adviser, and access by his or her staff may be necessary to fully defend the Commission in litigation concerning the LB Program or to advise the Division of Financial Statistics. A similar proposal was contained in the October 1979 proposed rules. To meet objections that the General Counsel might use the data for enforcement purposes, the rules expressly provide that use of the LB data shall not be inconsistent with these confidentiality rules or with Section 6 of the FTC Act. [*Id.* at 57233.]

The Commission believes that access in order to administer the LB Program and oversee the confidentiality requirements of Section 6 of the FTC Act, as amended by Section 4 of the FTC Improvements Act of 1980, Pub. L. No. 96–252, 94 Stat. 374, 375 (1980), is consistent with the statutory constraint that individual company LB information "shall be used only for statistical purposes." Such access is similar in its purpose and effect to access for purposes of enforcing compliance with orders to file LB reports—access which has been permitted under previous LB confidentiality rules implementing legislative restrictions similar to the restriction quoted above. Compare, *e.g.*, 40 FR 21543, *supra*, with Pub. L. No. 73–563, 88 Stat. 1840–41 (1974).

Reasons for Adopting Supplemental Interim Procedure

The anticipated publication of a study which contains aggregated 1974 LB data makes it advisable for the General Counsel's Office to have access to some individual company LB data for 1974 (and possibly for 1973 and 1975–76), and other LB Program information. Such access would be used to advise LB Program staff and the Commissioners regarding whether procedures used to aggregate LB data will fully satisfy the statutory prohibition against publication "whereby any line-of-business data furnished by a particular establishment or individual can be identified" (Section 4 of Pub. L. No. 96–252, 94 Stat. 375, *supra*). The Commissioners may require such access before they authorize publication of aggregates.

Access would also be used to give advice in responding to claims that have been raised by particular companies that publication of certain aggregates would result in disclosures prohibited by the statute. In support of these claims, some companies have recently provided information or made assumptions relating to the publication of LB data which cannot be assessed or verified without access to LB data of the company making the claim and of other companies reporting in the same LB category. Under one interpretation of the Commission's present confidentiality rules for 1973–76 LB reports, the LB Program staff cannot inform the General Counsel's staff or Commissioners whether the information presented is accurate. This makes it difficult for the General Counsel's Office to advise the Commission regarding, and for the Commission to consider, the validity of the companies' claims.

The need for prompt access to LB Reports is accentuated by the fact that one company has sued to enjoin the Commission from publishing any aggregates which include information obtained from that company. *Milliken & Co.* v. *FTC*, No. 79–126 (D.S.C.).

The Commission finds that these circumstances provide good cause, pursuant to 5 U.S.C. 553(d)(3), to adopt immediately the provision stated below. Furthermore, under 5 U.S.C. 553(d) and 553(d)(2), this provision is in effect a statement of policy regarding internal Commission procedures for treatment of LB information rather than a substantive rule that affects the conduct of persons outside the Commission. See 45 FR 57230 n. 1, *supra*. This provision will remain in effect until further notice. Other provisions of the confidentiality rules for 1973–76 are not affected by this amendment.

Supplemental Interim Confidentiality Procedure for 1973–1976 LB Reports

The General Counsel and his or her staff and Commissioners and their assistants may have access to individual reporting companies' LB Reports, and to other LB program information, in connection with matters directly related to pending or anticipated litigation concerning the LB Program, or to administration of the LB confidentiality rules and procedures. Those persons are designated to have access for these purposes pursuant to 94 Stat. 374, 375 (1980). Such access shall not be inconsistent with these confidentiality rules or with Section 6 of the FTC Act.

A Commission member, officer, or employee who has access to an LB Report shall first be required to certify that, during the assignment and after its termination for any reason, he or she will abide by the limitations in these rules and amendments to them; will not use or disclose LB Reports except in conformity with these rules; and that after termination of the assignment requiring access to LB Reports he or she will not retain possession of any documents or materials that contain data furnished by a Reporting Company that have not been or may not be disclosed pursuant to these rules. At the end of the assignment the member, officer, or employee shall then certify that he or she does not possess any such documents or materials and has complied with these rules at all times.

By direction of the Commission, dated December 2, 1980.

Loretta Johnson,

Acting Secretary.

[FR Doc. 80-38957 Filed 12-15-80; 8:45 am]

BILLING CODE 6750-01-M

Transmittal Rules; Early Termination of Waiting Period of Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: General Host Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Hickory Farms Sales Corporation from Mr. Donald P. Berens. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 3, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a,

as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-39031 Filed 12-15-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary of Health and Human Services, with the concurrence of the General Services Administration Committee Management Secretariat, of the following advisory committees:

Community Processes and Social Policy Review Committee
Criminal and Violent Behavior Review Committee
Life Course Review Committee
Mental Health Research Education Review Committee
Mental Health Small Grant Review Committee
Minority Group Mental Health Review Committee
Research Scientist Development Review Committee

Authority for these committees will expire on November 30, 1982 unless the Secretary formally determines that continuance is in the public interest.

Dated: December 9, 1980.

Robert L. Trachtenberg,

Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-38852 Filed 12-15-80; 8:45 am]

BILLING CODE 4110-88-M

Public Health Service

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, Continued Regulation of Health Maintenance Organizations: Determination of Noncompliance and Revocation of Federal Qualification.

SUMMARY: On July 2, 1980, the Office of Health Maintenance Organizations (OHMO) determined that The Toledo Health Plan/Health Plus (Health Plus), 4334 Secor Road, Suite 105, Toledo, Ohio 43623, a federally qualified health maintenance organization (HMO), was not in compliance with the assurance it had provided to the Secretary that it would have a fiscally sound operation. On October 21, 1980, the Director of OHMO notified Health Plus that he was revoking Health Plus's Federal qualification. Accordingly, Health Plus is no longer a federally qualified HMO.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under Section 1312(b)(1) of the Public Health Service Act (the Act) (42 U.S.C. 300e-11(b)(1)), if the Secretary makes a determination under section 1312(a) that a qualified HMO is not organized or operated in the manner prescribed by section 1301(c), then the HMO shall be (1) notified in writing of the determination and (2) directed to initiate corrective action to bring it into compliance with the assurances it provided to the Secretary under section 1310(d)(1). The notice of July 2, 1980, gave Health Plus an opportunity to initiate corrective action to bring it into compliance with the assurance that it would have a fiscally sound operation. In addition, Health Plus requested and, on August 1, 1980, was granted a 30 day extension to initiate corrective action. OHMO notified Health Plus by letter of October 21, 1980, that its qualification was being revoked. The basis for the revocation of Federal qualification was that Health Plus had not and would not carry out the corrective action necessary to return to compliance. The revocation of qualification was effective five working days after Health Plus received the October 21 letter.

The effect of the revocation of Health Plus's Federal qualification is as follows: (1) Health Plus may not seek inclusion in employees' health benefit plans under section 1310 of the Act; (2) with respect to employers including Health Plus in the health benefits plan offered their employees, Health Plus is not a qualified HMO for purposes of section 1310 of the Act; (3) the inclusion of Health Plus in an employees' health benefits plan will be disregarded for purposes of determining whether, and to what extent, the employer is subject to 42 CFR Part 110, Subpart H, and will not constitute compliance with the requirements of that subpart; and (4) Health Plus is not a qualified HMO for purposes of the financial assistance programs under 42 CFR Part 110.

Section 1312(b)(1) of the Act requires that a notice of the determination of noncompliance and of the revocation of Federal qualification of an HMO be published in the **Federal Register.**

Dated: December 5, 1980.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 80-38694 Filed 12-15-80; 8:45 am]

BILLING CODE 4110-85-M

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, Continued Regulation of Health Maintenance Organizations: Determination of Noncompliance.

SUMMARY: On August 8, 1979, the Office of Health Maintenance Organizations determined that Comprecare, Inc., 2040 South Oneida Street, P.O. Box 22047, Denver, Colorado 80222, a federally qualified health maintenance organization (HMO), was not in compliance with the assurance it had provided to the Secretary that it would maintain a fiscally sound operation. The determination of noncompliance does not itself affect the status of Comprecare as a federally qualified HMO. Rather, Comprecare has been given the opportunity to and has, in fact, initiated corrective action to bring itself into compliance with the assurances it gave the Secretary.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under Section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)) (the Act), if the Secretary makes a determination under section 1312(a) that a qualified HMO which provided assurances to the Secretary under section 1310(d)(1) is not organized or operated in the manner prescribed by section 1301(c), then she shall (1) notify the HMO in writing of the determination, (2) direct the HMO to initiate such action as may be necessary to bring it into compliance with the assurances, and (3) publish the determination in the **Federal Register.**

On August 8, 1979, OHMO notified Comprecare that it was not in compliance with the assurance that it had given the Secretary that it would maintain a fiscally sound operation. On November 30, 1979, OHMO approved a plan for Comprecare to restore compliance with these requirements.

Dated: December 5, 1980.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 80-38965 Filed 12-15-80; 8:45 am]

BILLING CODE 4110-85-M

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, Continued Regulation of Health Maintenance Organizations: Determination of Noncompliance and Revocation of Federal Qualification.

SUMMARY: On September 26, 1980, the Office of Health Maintenance Organizations (OHMO) determined that Texas Prepaid Health Plan (TPHP), 6700 West Loop South #400, Bellaire, Texas 77401, a federally qualified health maintenance organization (HMO), was not in compliance with the assurances it had provided to the Secretary that it would have (1) a fiscally sound operation and (2) satisfactory administrative and managerial arrangements. On October 30, 1980, the Director of OHMO notified TPHP that he was revoking TPHP's Federal qualification. Accordingly, TPHP is no longer a federally qualified HMO.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under Section 1312(b)(1) of the Public Health Service Act (the Act) (42 U.S.C. 300e-11(b)(1)), if the Secretary makes a determination under section 1312(a) that a qualified HMO is not organized or operated in the manner prescribed by section 1301(c), then the HMO shall be (1) notified in writing of the determination and (2) directed to initiate corrective action to bring it into compliance with the assurances it provided to the Secretary under section 1310(d)(1). OHMO notified TPHP by letter of October 30, 1980, that its qualification was revoked. The basis for the revocation of Federal qualification was that TPHP failed to carry out the corrective action as directed by OHMO. The revocation of qualification was effective five working days after TPHP received the October 30 letter.

The effect of the revocation of TPHP's Federal qualification is as follows: (1) TPHP may not seek inclusion in employees' health benefit plans under section 1310 of the Act; (2) with respect to employers including TPHP in the health benefits plan offered their employees, TPHP is not a qualified HMO for purposes of section 1310 of the Act; (3) the inclusion of TPHP in an employees' health benefits plan will be disregarded for purposes of determining whether, and to what extent, the employer is subject to 42 CFR Part 110, Subpart H, and will not constitute compliance with the requirements of that subpart; and (4) TPHP is not a qualified HMO for purposes of the financial assistance programs under 42 CFR Part 110.

Section 1312(b)(1) of the Act requires that notice of the determination of noncompliance and of the revocation of Federal qualification of an HMO be published in the **Federal Register.**

Dated: December 5, 1980.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 80-38966 Filed 12-15-80; 8:45 am]

BILLING CODE 4110-85-M

Office of the Secretary

Senior Executive Service Performance Awards (Bonuses)

ACTION: To signify intent of the Department of Health and Human Services to grant SES Performance Awards.

DATE: December 11, 1980.

FOR FURTHER INFORMATION CONTACT: Rita Reed, 202-245-7410.

Notice is hereby given that pursuant to section 5384 of Title V of the U.S. Code, the Department of Health and Human Services will grant performance awards to members of the Senior Executive Service in December, based on performance in FY 1980.

Checks will be distributed in January 1981.

Dated: December 10, 1980.

Thomas S. McFee,

Assistant Secretary for Personnel Administration.

[FR Doc. 80-38963 Filed 12-15-80; 8:45 am]

BILLING CODE 4110-12-M

Office for Civil Rights; Statement of Organization, Functions, and Delegations of Authority

Part A, Chapter AT (Office for Civil Rights) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (45 FR 47474-79, July 15, 1980) is amended to reflect the transfer of enforcement responsibility for the Hill-Burton community service assurance from the Assistant Secretary for Health, Public Health Service, Health Resources Administration, to the Office for Civil Rights.

Section AT.30, *Delegations of Authority*, is hereby amended as follows:

After item 8, add:

9. Those provisions of Title XVI of the Public Health Service Act, as amended, that pertain to enforcement of the community service assurance.

Dated: December 8, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-38962 Filed 12-15-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

[Docket No. N-80-1050]

Displacement Policy and Research

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Solicitation of Public Comments.

SUMMARY: Section 105(b) of the Housing and Community Development Act of 1980 (Pub. L. 96-399) requires HUD to continue its study of involuntary displacement and to transmit to Congress a report which contains (1) data collected since its initial report in 1979 and (2) further recommendations on minimizing involuntary displacement and alleviating problems caused by such displacement. This notice solicits copies of studies and reports on displacement and invites recommendations for minimizing involuntary displacement and problems relating to it.

RESPONSE DUE DATE: January 16, 1981.

ADDRESS: Send responses to: Displacement Report, Office of Policy Development and Research, Room 8106, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: George A. Ferguson, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-8106. This is *not* a toll free number.

SUPPLEMENTARY INFORMATION: In response to growing public concern over the displacement of lower income households as a result of public and private reinvestment activity, Congress directed HUD in Section 902 of the Housing and Community Development (HCD) Amendments of 1978 (Pub. L. 95–557), (1) to report on the nature and extent of displacement and (2) to submit recommendations for the formulation of a national policy both to minimize involuntary displacement under HUD programs and to alleviate problems caused by displacement due to publicly and privately-financed development and rehabilitation.

In February 1979, HUD submitted an interim report to the Congress in response to the first part of that mandate. The initial report presented currently available information on the nature and scope of displacement. It highlighted the problems of defining and measuring the extent of displacement; presented available data on the number of displacement-related moves; differentiated among the causes of displacement (private revitalization, housing abandonment, and government programs); summarized relocation assistance available under Federal programs; and cited the Department's current legal powers and regulatory policies with respect to displacement which occurs in connection with the implementation of HUD programs and activities.

The second and final part of HUD's response to the Congressional mandate was completed in November 1979. The final report noted that displacement is a very serious problem in some areas of our major cities and creates hardships for those who are affected. The report also noted, however, that revitalization offers benefits to urban areas. In balancing these two effects of community development and revitalization, HUD concluded that the most appropriate national policy on displacement would be to ensure:

1. That involuntary displacement of persons in connection with Federal or Federally-assisted programs and activities is minimized;

2. Where such displacement is unavoidable, that appropriate relocation assistance is provided;

3. That efforts are made to expand the housing supply available to low and moderate income persons; and

4. That sufficient research and technical assistance is provided to encourage and support the efforts of State and local governments, neighborhood-based groups, and the private sector to enable them to develop appropriate strategies and activities to minimize displacement and any attendant hardships caused by private revitalization.

Noting that it has a reponsibility both to minimize involuntary displacement in the conduct of its programs and to provide appropriate assistance to those who are forced to move, HUD adopted as a general goal a policy that no person is displaced as a direct result of a HUD or HUD-assisted program or activity unless an affordable, decent, safe and sanitary replacement dwelling is available. In its final report, the Department proposed to make the following changes to HUD programs to meet that goal:

1. Incorporating into program policy a goal to minimize involuntary displacement by factoring in potential displacement as an explicit funding consideration;

2. Requiring entities receiving HUD assistance to ensure that appropriate relocation assistance is provided; and

3. Developing anti-displacement policies in addition to relocation policies in HUD programs to mitigate displacement.

Section 105(b) of the Housing and Community Development Act of 1980 requires HUD to continue the study on involuntary displacement conducted under Section 902 of the 1978 HCD Amendments and to transmit a report to Congress which contains (1) data collected since the initial report submitted under Section 902, and (2) further recommendations on minimizing involuntary displacement and alleviating problems caused by such displacement. The report is to be sent to Congress by March 30, 1981.

HUD has funded a number of research and technical assistance projects that address various aspects of the displacement issue, and plans to use data that is available from them in preparing its report to Congress. These projects were discussed in the 1979 report. However, HUD is also seeking assistance from the public to ensure that it has considered the most recent research that is available on the topic. In addition, the Department is seeking the views of interested individuals, public interest groups, governments, private organizations, and other persons on the extent to which they believe there is a need for a national policy on displacement, the appropriate content of such a policy, and recommendations on ways to address displacement. Any materials that are submitted by January 15, 1981, will be considered by the Department before it prepares its report to Congress. Materials received after that date will be considered to the extent that time permits.

The Department is specifically interested in obtaining the following:

1. *Reports and studies* (especially those published since January 1, 1979) which provide data on the nature, cause(s) and extent of involuntary displacement; the numbers and characteristics of displaced families and individuals (by racial/ethnic groups or gender category, to the extent that such information is available) and of displaced small businesses; the types of locations and circumstances in which displacement is occurring; and the present housing (and its relative cost and desirability) of those who previously have been displaced.

2. *Recommendations* on steps needed to improve the availability of displacement data, and what level of government (Federal, state, or local) should be responsible for collecting it.

3. *Descriptions* of policies and programs that state and local governments, the private sector, and community organizations are currently implementing (or should undertake) to minimize displacement or to alleviate the problems caused by displacement, including descriptions of early-warning monitoring systems that might be developed to assist these groups in identifying persons or areas that are likely to be affected by displacement.

4. *Assessments* of the extent to which different segments of the population, such as the elderly, minorities, large families, female-headed households, and those with limited ability to afford suitable replacement housing should be the focus of policies and programs to prevent or minimize displacement, and whether different policies and programs for such identifiable segments of the population are needed.

5. *Assessments* of the extent to which involuntary displacement is occurring in non-traditional circumstances and locations such as in the case of the conversion of existing mobile home parks to other uses or in small towns and rural areas.

6. *Assessments* of the extent to which current Federal, state, and local policies or programs have sufficiently minimized displacement and mitigated problems associated with displacement.

7. *Assessments* of the extent to which there is a need for a national policy on displacement and what the appropriate content of such a policy should be.

8. *Recommendations* on policies, requirements and procedures to minimize involuntary displacement and alleviate problems caused by displacement.

In submissions which contain proposals for minimizing involuntary displacement and alleviating problems,

comments which address the following key concerns will be of the greatest assistance to HUD in considering its recommendations to the Congress:

1. What is an appropriate definition of displacement for use in determining public policy?

2. If the proposal(s) were to be implemented, what would be the effect on community development and revitalization activities?

3. What are the legal and budgetary implications of the proposal(s)?

4. What are the appropriate respective roles for Federal, state and local governments, community organizations and the private sector in addressing private displacement?

5. What new Federal legislation, if any, is required to implement the proposal(s)?

6. What types of additional research are needed to document the nature and extent of displacement associated with revitalization efforts?

7. What are the appropriate types and levels of Federal technical assistance (or other assistance, if any) for local efforts to minimize or mitigate the effects of private displacement?

To be most useful, each response should contain a clear definition of the term "displacement" as it is used in the materials submitted. If possible, copies of reports or studies should be submitted in duplicate. In cases in which there may be a purchase price or reproduction cost, the Department would like to be informed of the document, its cost, and its availability, so that it may determine whether it wishes to acquire it.

Issued at Washington, D.C., December 10, 1980.

David F. Garrison,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 80-38958 Filed 12-15-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Dr. William G. Reeder, University of Texas at Austin, Austin, Texas. PRT 2-7098.

The applicant requests a permit to import dead specimens of the following endangered wildlife for scientific purposes: 1) green sea turtle (*Chelonia mydas*), 2) land iguana (*Conolophus pallidus*), 3) Galapagos hawk (*Buteo galapagoensis*), 4) brown pelican (*Pelecanus occidentalis*), and 5) Galapagos penguin (*Spheniscus mendiculus*).

Applicant: Thomas A. Crowell, North Caldwell, New Jersey. PRT 2-7314.

The applicant requests a permit to import two Cayman parrots (*Amazona leucocephala caymanesis*) from Charles Eden, Grand Cayman, British West Indies for enhancement of propagation and survival.

Applicant: St. Louis Zoological Park, St. Louis, Missouri. PRT 2-7364.

The applicant requests a permit to import one captive-bred banteng (*Bos banteng*) from the Carl Hagenbeck Tierpark, West Germany for enhancement of propagation and survival.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before January 15, 1981 by submitting written data, views, or arguments to the Director at the above address.

Dated: December 10, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-38970 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3571, Block 300, 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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-39005 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Anadarko Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 2567, Block 359, East Cameron 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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-39008 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Unit Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3340, Block 53, Breton Sound Area, offshore Mississippi.

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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-39007 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Diamond Shamrock Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3419, Block 116, Main Pass 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 7002, 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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-39008 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4237, Block 170, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-39009 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Forest Oil Corp., Unit Operator of the Eugene Island Block 292 Federal Unit Agreement No. 14–08–0001–8764, submitted on November 28, 1980, a proposed annual plan of development/production describing the activities it proposes to conduct on the Eugene Island Block 292 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to

3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (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 on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation, Gulf of Mexico OCS Region.

[FR Doc. 80-39010 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4119, Block 50, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-39011 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Shell Oil Company has submitted a Supplemental Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1026, Block 241, Ship Shoal 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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-39012 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Shell Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3738, Block 223, Galveston Area, offshore Texas.

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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-39013 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3248, Block A–318, High Island Area, offshore Texas.

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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-39014 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4000, Block 53, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-39015 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before December 5, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by December 31, 1980.

Carol Shull.

Acting Chief, Registration Branch.

ARIZONA

Yavapai County

Prescott, *Goldwater, Henry, House,* 217 E. Union St.
Prescott, *Santa Fe, Prescott and Phoenix Railroad Depot,* Cortez St.
Prescott, *Sisters of Mercy Hospitol Convent,* 220 Grove Ave.

CALIFORNIA

Monterey County

Pacific Grove, *Trimmer Hill,* 230 6th St.

DELAWARE

Kent County

LEIPSIC AND LITTLE CREEK MULTIPLE RESOURCE AREA. This area includes Leipsic, *Annie R. Shillingsburg (Schooner),* South bank of Leipsic River; *Cannon, Wilson L., House,* Front and Main Sts.; *Fennimore Store,* Main, Lombard, and Front Sts., Hoffecker, H.T., House, Front St.; *Katherine M. Lee (Schooner),* South bank of Leipsic River; *McClary House,* Main and McClary Sts.; *Maggie S. Myers (schooner),* South bank of Leipsic River; *Rawley House,* Main St.; *Reed House,* Lombard St.; *Ruth Mansion,* Main St.; *Sipple House,* Denny and Front Sts.;
Little Creek, *Little Creek Methodist Church,* Main St.; *Stone Tavern,* Main St.; *Stubbs, Elizabeth, House,* Main St.; *Woodley, Jonathan, House,* Main St.;

HAWAII

Honolulu County

Honolulu, *Bishop, Bernice P., Museum,* 1355 Kalihi St.
Honolulu, *Lihiwai,* 51 Kepola Pl.

INDIANA

Tippecanoe County

Lafayette vicinity, *Hawkins, Joseph, House,* 3215 S. 175W

KENTUCKY

Jefferson County

Louisville, *Wedekind houses,* 2532 and 2630 W. Burnett Ave.

MARYLAND

Montgomery County

Rockville vicinity, *Montrose Schoolhouse,* Randolph Rd.

Prince George's County

Upper Marlboro vicinity, *Bowling Heights,* 3610 Old Crain Hwy.

MINNESOTA

Itasca County

Calumet vicinity, *Hill Annex Mine,* Off U.S. 169

Lincoln County

Lake Benton, *Lake Benton Opera House and Kimball Building,* Benton St.

St. Louis County

Buhl vicinity, *Mesaba Park,* S of Buhl off MN 37
Hibbing, *City Hall,* 21st St., E. and 4th Ave.

NEW HAMPSHIRE

Cheshire County

Swanzey vicinity, *Swanzey Archaeological District,* N of Swanzey

Hillsborough County

Hollis, *Meetinghouse, The,* Monument Sq.

Merrimack County

Concord, *Leavitt Farm,* 103 Old Loudon Rd.

Rockingham County

Kingston, *Nichols Memorial Library,* Main St.

NEW YORK

St. Lawrence County

Brasher Falls, *Dr. Buck-Stevens House,* W. Main St.

OKLAHOMA

Creek County

Bristow vicinity, *Jones, R. E. L., House,* N of Bristow

Kiowa County

Hobart, *Rock Island Railroad Depot*, S. Main St.

Muskogee County

Muskogee, *Grace Cathedral*, 218 N. 6th St.

Washington County

Bartlesville, *Old Washington County Courthouse*, 400 Frank Phillips Blvd.

PENNSYLVANIA

Carbon County

Weissport, *Lehigh Canal Hotel and Rickert's Coal Yard and Feed Mill*, Canal Rd.

Lancaster County

Lancaster, *Krauskap, Henry, House and Store*, 301–303½ W. King St.

SOUTH DAKOTA

Lake County

Madison, *United States Post Office*, 119 Center St.

TEXAS

Hidalgo County

Linn vicinity, *San Juanito Archeological District*, W of Linn

UTAH

Utah County

Provo, *de Jong, Jr., Gerrit, House*, 640 N. University Ave.

VERMONT

Windham County

Brattleboro, *Holbrook, Deacon John, House*, Linden and Chapin Sts.

VIRGINIA

Accomack County

Pungoteague vicinity, *Shepherd's Plain*, W of Pungoteague

Independent City

Colonial Heights, *Fort Clifton Archaeological Site*, Conduit Rd.

Portsmouth, *Truxtun Historic District*, Portsmouth and Deep Creek Blvds., Manly, Dahlia, Hobson, Dewey and Bagley Sts.

King William County

King William vicinity, *Pamunkey Indian Reservation Archeologist District*, S of King William

Northampton County

Eastville vicinity, *Kendall Grove*, VA 674

Orange County

Somerset vicinity, *Frascati*, S of Somerset on VA 231

Tazewell County

Bluefield vicinity, *St. Clair, Alexander, House*, W of Bluefield on VA 650

Wise County

Wise, *Wise County Courthouse*, VA 640

WEST VIRGINIA

Summers County

Hinton, *Summers County Courthouse*, Ballangee St. and 1st Ave.

WISCONSIN

Calumet County

Forest Junction, *Haese Memorial Village Historic District*, Milwaukee and Randolph Sts.

Douglas County

Superior, *Pattison, Martin, House*, 906 E. 2nd St.

Polk County

St. Croix Falls vicinity, *Lamar Community Center*, NE of St. Croix Falls

Price County

Fifield vicinity, *Round Lake Logging Dam*, NE of Fifield

Racine County

Racine, *Jonas, Karel, House*, 1337 N. Erie St.

Rock County

Tiffany vicinity, *Tiffany Stone Bridge*, SE of Tiffany

Sawyer County

Raddison vicinity, *Ojibwa Courier Press Building*, E of Raddison at 110 Ojibwa Mall

WYOMING

Albany County

Laramie, *East Side School*, Off U.S. 30

Carbon County

Sinclair, *Parco Historic District*, U.S. 287/30

[FR Doc. 80-38552 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-03-M

Bureau of Land Management

[AA-23140]

Alaska Native Claims Selection

The document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area" was ratified by Pub. L. 94–204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1978, Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369, 1390) authorized the Secretary of the Interior to identify and reserve within two years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance, and to issue immediately thereafter a revised conveyance reflecting such reservation.

On December 15, 1978, Patent No. 50–79–0030 was issued to Cook Inlet Region, Inc., for 160.00 acres of the surface and subsurface estates of lands conveyed to the United States by the State of Alaska. The lands were conveyed pursuant to Sec. 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(e)) (ANCSA), and Sec. 12(c) of Pub. L. 94–204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369) and are described as follows:

Seward Meridian, Alaska

T. 18 N., R. 2 W.
Sec. 36, S½S½.
Containing 160.00 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act. When this decision becomes final, a revised conveyance document will be issued to Cook Inlet Region, Inc., for the above described lands with no Sec. 17(b) easements reserved. The revised conveyance document will remain subject to all other rights, terms, conditions, and convenants contained in patent No. 50–79–0030.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party known or unknown who is adversely affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, 701 C Street, P.O. Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision by mail shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until January 15, 1981, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau

of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 80–38994 Filed 12–15–80; 8:45 am]

BILLING CODE 4312–84–M

[CA 7535 WR, CA 7096 WR, CA 2888 WR, CA 7394 WR, CA 8004 WR]

California; Proposed Continuation of Withdrawals and Opportunity for Public Hearing

December 8, 1980.

As a result of the review made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2754; 43 U.S.C. 1714), the Bureau of Land Management, U.S. Department of the Interior, proposes to continue the following public water reserve withdrawals:

Mount Diablo Meridian, California

1. Public Water Reserve No. 160, CA 7535 WR:

T. 7 S., R. 20 E.,
Sec. 2, NE¼SE¼.
The land aggregates 40 acres in Madera County, California.

2. Public Water Reserve No. 133, CA 7096 WR:

T. 16 S., R. 11 E.,
Sec. 13, W½NE¼.
The land aggregates 80 acres in San Benito County, California.

3. Public Water Reserve 107, Interpretation No. 238, CA 7394 WR:

T. 19 S., R. 15 E.,
Sec. 2, W½SW¼NW¼SE¼.
The land aggregates 5 acres in Fresno County, California.

4. Public Water Reserve 107, Interpretation, CA 2888 WR:

T. 17 N., R. 9 E.,
Sec. 18, S½NE¼ and N½SE¼.
The land aggregates 160 acres in Nevada County, California.

5. Public Water Reserve 107, Interpretation, CA 8004 WR:

T. 1 S., R. 13 E.,
Sec. 11, NE¼NW¼.
The land aggregates 40 acres in Tuolumne County, California.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuations. All interested persons who desire to be heard on the proposed continuations must submit a written request for a hearing to the undersigned officer. If the State Director, in his discretion, determines that a public hearing is justified, a notice will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Section 2351.16B.

The Bureau of Land Management's procedures provide that the authorized officer will review the justification and recommended termination date for each existing BLM withdrawal to ensure that continuation provides for maximum public and private use of the withdrawn lands consistent with the purpose of the withdrawal and that all withdrawals lacking justification are recommended for either total or partial revocation.

The authorized officer will prepare a report for consideration by the Secretary of the Interior, who will determine whether, and for how long, the continuation of the existing withdrawals is justified. The determination of the Secretary will be published in the **Federal Register.**

All communications in connection with the withdrawal continuations should be addressed to the undersigned, Bureau of Land Management, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80–38954 Filed 12–15–80; 8:45 am]

BILLING CODE 4310–84–M

[Serial No. I–1639]

Idaho; Partial Termination of Classification for Multiple-Use Management

December 8, 1980.

1. Pursuant to authority delegated to me by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526), I hereby terminate the Bureau of Land Management Multiple-Use Classification Order dated November 9, 1967 (Serial No. I–1639) published in the **Federal Register** November 16, 1967, 32 FR 15767, insofar as it segregated the lands described below from mineral entry:

Boise Meridian, Idaho

(I–1639)

T. 18 N., R. 21 E.,
Sec. 3, Lot 6;
T. 19 N., R. 21 E.,
Sec. 14, Lots 1, 4;
Sec. 23, Lots 1, 3, NE¼NW¼;
Sec. 34, Lot 4.

The areas described aggregate 270.37 acres in Lemhi County, Idaho.

2. The segregative effect (closure to entry under the Mining Laws) on the lands described in this order will terminate upon publication of this notice in the **Federal Register** as provided by the regulations in 43 CFR 2461.5(c)(2). The lands remain closed to entry under the agricultural land laws.

Robert O. Buffington,

State Director.

[FR Doc. 80–38955 Filed 12–15–80; 8:45 am]

BILLING CODE 4310–84–M

Office of Surface Mining Reclamation and Enforcement

Mid-Continent Resources, Inc.; Coal Basin Mines, Pitkin and Gunnison Counties, Colo.; Pending Decision To Approve Major Modification to a Coal Mining and Reclamation Plan (Federal Lease No. CO–9005, U.S. Forest Service Special Use Permit No. 4082–811)

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of pending decision to approve a major modification to a mining and reclamation plan for construction of a permanent fill.

SUMMARY: Pursuant to Section 1506.6 of Title 40 and Section 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Region V Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of Mid-Continent Resources, Incorporated's modification to the Coal Basin Mines for construction of a permanent fill and coal and equipment haulage tunnels. OSM has recommended to the Department that the plan be approved with stipulations.

Location of lands to be effected by mining:

Applicant: Mid-Continent Resources, Inc.

Mine Name: Coal Basin Mines

State: Colorado

Counties: Pitkin and Gunnison

Township, Range, Section: T.9S., R.88W. Sections 21, 23, 24, 25, 26, 27, 34, 35

Office of Surface Mining Reference No. C0–0011

The proposed mines are located approximately 6 miles west of Redstone, Colorado and include the Dutch Creek Number 1 and 2 Mines, L.S. Wood #3,

Bear Creek Mine #4 and Coal Basin #5. The Coal Basin Mines produce 850,000 tons per year (tpy) of high grade coking coal which is shipped to Kaiser Steel in California and United States Steel in Utah.

The proposed plan involves construction of two side-by-side, underground 14,000 foot long, rock tunnels and use of 25 acres of U.S. Forest Service land for a permanent fill pile, sediment ponds and other developments (Special Use Permit #4082–811 from the U.S. Forest Service). The U.S. Forest Service permit also allows the underground tunnels to extend from the tunnel portals across a 7,700 foot long segment of the U.S. White River National Forest tangent to the 25 acres described above. No impacts would occur on the adjacent Gunnison National Forest. One tunnel would provide access for men and materials and the other tunnel would transport coal via a central coal conveyor system. Twenty-three of the 25 acres under the special use permit would be disturbed of which 13.5 acres are required for the permanent fill.

The tunnels would eliminate the use of roads, for coal transport along approximately 7 miles of haulroads within the White River National Forest. The tunnels would also be used to transport wastes to a central location instead of two refuse dumps at each mine portal; to develop a central system for discharging water accumulating in the mines; and to improve the ventilation facilities. The rock tunnels would occur approximately 4,000 to 7,000 feet below the coal outcroppings.

The Bureau of Land Management evaluated impacts of the overall mining operation in the final regional and site-specific EIS, "West-Central Colorado Coal Environmental Statement", Vol. I and II (March 1979). The U.S. Forest Service analyzed the impacts of the proposed permanent fill in the "Environmental Analysis Report of Mid-Continent Coal and Coke Company Rock Tunnel Project" (May 1979).

Based on the modification to the mining and reclamation plan submitted to OSM to fulfill the requirements of the Surface Mining Control and Reclamation Act of 1977, OSM has prepared a technical analysis and an environmental assessment. From its analyses, OSM has determined that no significant impacts would occur to the human environment. In addition, the stipulations identified in the technical analysis and environmental assessment would mitigate the impacts to vegetation and soils on the 25 acres of surface disturbance.

The purpose of this notice is to inform the public that based on OSM staff analysis of the mining and reclamation plan and the reviews of other State and Federal agencies, the Regional Director, Region V, OSM is recommending approval with stipulations of the major modification to Mid-Continental Resources, Inc.'s mining and reclamation plan for the Coal Basin Mines. Any person having an interest that may be adversely affected by the recommended approval may request, in writing, a public meeting on the proposed decision.

Approval of the permanent fill and construction of the tunnels would be under the interim regulatory program. Mid-Continent Resources, Inc., would be required to file a permit application under the permanent program regulations not later than 2 months after the effective date of the Colorado State program approval or an equivalent Federal program for that State.

The Assistant Secretary for Energy and Minerals' decision will be based on the recommendations of the U.S. Forest Service, the U.S. Geological Survey, Colorado Department of Mined Land Reclamation and any public comments received on or before 20 days after publication of this notice in the **Federal Register.**

DATES: All requests for a public meeting must be made on or before (20 days from date of publication). No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The technical analysis, environmental assessment, and proposed stipulations are available on request from the Office of Surface Mining, Region V. Any comments on the proposed approval should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Keith Kirk or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Dated: December 9, 1980.

Walter N. Heine,

Director.

[FR Doc. 80-38866 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-05-M

Notice of Pending Decision To Approve Major Modification to Mining and Reclamation Plan; Northern Coal Company's Rienau No. 2 Mine, Rio Blanco and Moffat Counties, Colorado; (Federal Lease Nos. D-044240 and C-076713)

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of pending decision to approve major modification to underground coal mining and reclamation plan for an increase in the rate of production.

SUMMARY: Pursuant to § 1506.6 of Title 40 and § 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Region V Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of Northern Coal Company's major modification to the Rienau #2 mining and reclamation plan. OSM has recommended to the Department that the plan be approved with stipulations. Notice of availability of Northern Coal Company's application was published in the **Federal Register** on July 2, 1980, 45 FR No. 129, p. 45025.

Location of lands to be affected by mining:

Applicant: Northern Coal Company
Mine Name: Rienau No. 2
State: Colorado
Counties: Rio Blanco and Moffat
Township, range, section: T.2N., R.3W., Sections 29 and 32; T.6N., R.90W., Section 1.

Office of Surface Mining reference No. C0–0008

The Rienau No. 2 Mine is located about 40 miles south of Craig, Colorado. The currently approved plan is for the recovery of approximately 150,000 tons of coal per year.

The proposed modification involves increasing the rate of production to 500,000 tons per year for a period of 1½ years. This increase in production would require the addition of a second underground continuous miner, associated shuttle cars, and eight additional highway haulage trucks. Distrubed acreage would remain the same as in the approved mine plan (11.4 acres at the surface and 86 acres underground).

Based on the modification to the mining and reclamation plan submitted to OSM to fulfill the requirements of the Surface Mining Control and Reclamation Act of 1977, OSM has prepared a technical analysis and environmental assessment. In addition, the stipulations identified in the technical analysis and

environmental assessment would mitigate the potentially adverse impacts to wildlife and other resources.

The purpose of this notice is to inform the public that, based on OSM staff analysis of the mining and reclamation plan and the reviews of other State and Federal agencies, the Regional Director, Region V, OSM is recommending approval with stipulations of the major modification to Northern Coal Company's mining and reclamation plan for the Rienau No. 2 Mine. Any person having an interest that may be adversely affected by the recommended approval may request, in writing, a public meeting on the proposed decision.

Amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the Permanent Regulatory Program for Federal lands until the date of approval of a State program or until implementation of a Federal program for a State (see 44 FR 77440–47, December 31, 1979). Departmental action on Northern Coal Company's modification to its mining and reclamation plan at this time would not relieve the applicant of the obligation to file a permit application no later than two months after the effective date of the Colorado State program approval or an equivalent Federal program for that State. Upon receipt of that application, OSM will review the application pursuant to 30 CFR Chapter VII.

The Assistant Secretary for Energy and Minerals' decision will be based on the recommendations of OSM, the Bureau of Land Management, the U.S. Geological Survey, the Colorado Mined Land Reclamation Division and any public comments received on or before January 5, 1981.

DATES: All requests for a public meeting must be made on or before January 13, 1981. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The technical analysis, environmental assessment and proposed stipulations are available on request from the Office of Surface Mining, Region V. Any comments on the proposed approval should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Florence Munter-Schaller or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Dated: December 9, 1980.

Walter N. Heine,

Director.

[FR Doc. 80-38865 Filed 12-15-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 34090 appearing at page 72801 in the issue of Monday, November 3, 1980, make the following correction.

On page 72835, in the second Column, in the paragraph "MC 135070; application Jay Lenis, Inc., in the ninth line following the State abreviation "MT" instead of "MN" should read "NM".

BILLING CODE 1505-01-M

Motor Carrier Finance Applications Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after December 16, 1980, except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as 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 protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: December 1, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams.

MC–F–14308F, filed February 5, 1980. LRC, INC. (Sunflower) (14th & Division Avenue, P.O. Box 583, York, NE 68467). Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. LRC seeks authority to control Sunflower through the purchase of all the outstanding capital stock of Sunflower. Duane W. Acklie, who controls LRC through direct stock ownership of 51% also seeks authority to acquire control of Sunflower through the transaction. Duane W. Acklie controls Trans Corp., through stock ownership. LRC, a carrier holding company, owns all of the stock of Crete Carrier Corporation, a motor carrier operating pursuant to authority issued in MC 128375 and MC 126118. Trans Corp., owns all of the stock of Shaffer Trucking, Inc., a motor carrier operating pursuant to authority issued in MC 114569. Common control of Crete and Shaffer was authorized in MC–F–12351. The operating rights to be controlled by LRC are evidenced by permits in MC 140037 and sub-numbers thereunder, which authorize operations, as a motor contract carrier, in interstate or foreign commerce, over irregular routes as follows: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), From the facilities of Sunflower Beef Packers, Inc., at or near York, Nebraska, to points in the United States (except Alaska, Washington, Oregon, Idaho, Montana, Hawaii and Nebraska), with no transportation for compensation on return except as otherwise authorized. Restriction: the authority granted herein is limited to a transportation service to be performed under a continuing contract, or contracts, with Sunflower Beef Packers, Inc., of York, Nebraska. *Meat, meat products and meat by-products and articles distributed by meat packinghouses* as described in Section A 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), (a) From Spencer, Iowa to New York, New York. Restriction: Restricted to a transportation service to be performed under a continuing contract(s) with Sunflower Beef Packers, Inc. of York, Nebraska; and (b) From the facilities of Moore Brothers Wholesale Meats, Inc., at or near Brooklyn, New York, to points in the United States (except Alaska and Hawaii). Restriction: Restricted to a transportation service to be performed under a continuing contract(s) with Moore Brothers Wholesale Meats, Inc. *Aluminum,* From Oswego, New York; Lancaster, Pennsylvania, Lewisport and Hawesville, Kentucky; Davenport, Iowa; Terre Haute, Indiana; McCook, Illinois and Omal, Ohio to Hastings, Nebraska and Powell, Wyoming; and *Irrigation pipe,* From Hastings, Nebraska and Powell, Wyoming to points in the United States. Restriction: Restricted to a transportation service to be performed under a continuing contract(s) with Hastings Irrigation Pipe Company. *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 Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), From the facilities of Siouxland Dressed Beef at Sioux City, IA, to points in NY. Restriction: Restricted to a transportation service to be performed under a continuing contract(s) with Sunflower Beef Packers, Inc. Condition: LRC, Inc., shall continue to be deemed a carrier within the meaning of 49 U.S.C. 11348, as previously subjected by Review Board Number 5 in its decision served October 15, 1975, in MC–F–12507. (Hearing site: Lincoln, NE.)

Notes.—(1) An application for temporary authority has been filed. (2) LRC filed a directly related appliction FD–29246F, under 49 U.S.C. 11302 to issue notes to finance the purchase of the stock of Sunflower and the tangible properties of the other entities as well as assume the outstanding liabilities on such tangible properties. The "Motor Carrier Act of 1980" amended the finance exemption under 49 U.S.C. 11302(b) by raising the exemption limit from $1,000,000 to $5,000,000, This securities application in addition to outstanding securities falls far short of $5,000,000. The securities application is no longer necessary and will be dismissed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 36936 Filed 12–15–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Finance Applications Decision-Notice

The follow applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-44), *Rules Governing Applications Filed By Motor Carriers Under 49* U.S.C. 11344 and 11349. Those rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protests includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(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, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after December 16, 1980. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related

thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice or the application of a non-complying applicant shall stand denied.

Decided: December 5, 1980.

By the Commission, Review Board No. 5, member Krock, Taylor and Williams (In MC-F-14440F, Board member Taylor dissents, stating that he does not suscribe to the proposed issuance of a supplemental publication. The Commission's regulations for summary grant procedures prohibit material modification of an application subsequent to publication of notice of the filing of the application. Moreover, the 30-day waiting period has expired. The proper procedure here is for Southeastern to seek substitution for Tomahawk in the Sub-108 proceeding)

MC-F-14509F, filed November 19, 1980. SPECIAL CARRIERS, INC. (Special) (1500 Walnut Street, 19th Floor South, Philadelphia, PA 19102)—continuance in control—GEMINI TRUCKING, INC. (Gemini) (1533 Broad Street, Greensburg, PA 15601). Representative: Roland Rice, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209; and H. Beatty Chadwick, 1500 Walnut Street, Philadelphia, PA 19102. Special seeks authority to continue in control of Gemini upon the institution by Gemini of operations, in interstate or foreign commerce, as a motor contract carrier. IU International Corporation, the sole stockholder of Special, seeks authority to acquire control of said rights and property through the transaction. Special is a newly formed corporation and holds no interstate operating rights. IU International Corporation is a publicly held non-carrier corporation that controls IU Transportation Services, Inc., a holding company controlling Ryder Truck Lines, Inc. (MC 2900) and Pacific Intermountain Express Co. (MC 730). Ryder Truck Lines, Inc., also controls Ryder Truck Lines, LTD, which has applied for authority to purchase operating authority from Reliable Transport (U.S.) Ltd., In MC-F-14429. Ryder Truck Lines, Inc., also controls Ryder Forwarding, Inc., a freight Forwarder (FF-341), and RTL Holdings, Inc., a property broker (MC 130636). By effective notice served November 10, 1980, in MC-150939F Gemini was granted authority to operate as a contract carrier, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the United States, under a continuing contract(s) with Fishers Big Wheel, Inc., of New Castle, PA.

MC-F-14504F, filed November 13, 1980. GRESHAM TRANSFER, INC. (Gresham) (12008 NE Inverness Dr., Portland, OR 97220)—purchase (portion)—WIDING TRANSPORTATION, INC. (Widing) (P.O. Box 03159, Portland, OR 97203). Representatives: Earle V. White, 2400 SW Fourth Ave., Portland, OR 97201; and Michael Crew, Standard Plaza, Portland, OR 97204. Gresham seeks authority to purchase of a portion of the interstate operating rights and property of Widing. Derald D. Ulmer, the sole stockholder of Gresham, seeks authority to acquire control of said rights and property through the transaction. Gresham is purchasing portions of the interstate operating rights contained in Widing's certificates in MC 123681 as follows: (Sub-1) *ferro-nickel pigs*, from the plantsite of Hanna Nickel Smelting Company, at or near Riddle, OR, to Portland, OR; (Sub-8—Portion) *general commodities* (except household goods as defined by the commission, commodities in bulk, and compressed gas in cyclinders), (a) between Portland, OR, and Vancouver, WA, and (b) between points in Portland, OR; *wool and pipe*, between Portland, OR, and Washougal, WA; *heavy machinery and parts*, between Portland, OR, on the one hand, and, on the other, Camas and Longview, WA; *building materials*, between Woodland, WA, and Portland, OR; *structural and fabricated iron and steel*, and *such iron and steel articles* as are used in the construction of buildings and bridges, *anchors, anchor chains and attachments therefor, heavy machinery, conveyors, dry kiln machinery and equipment*, and *contractors' tools, equipment, and supplies*, minimum 10,000 pounds (except contractors' supplies in bulk), between points in Multnomah and Washington Counties, OR, on the one hand, and, on the other, points in OR, WA, and ID, except between Portland, OR, on the one hand, and, on the other, Longview, Fort Steilacoom, Curtis, Lynden, and Ridgefield, WA, and points in WA on specified portions of hwys; *such of the commodities specified immediately above*, which, because of unusual length, width, height, or weight, require the use of special equipment, minimum 10,000 pounds, between portland, OR, on the one hand, and, on the other, Longview, Fort Steilacoom, Curtis, Lynden, and Ridgefield, WA, and points in WA on the specified portions of the highways above; *Lumber and piling*, between St. Helens and The Dalles, OR, on the one hand, and, on the other, points in WA; *heavy machinery* and *contractors' equipment, materials, and supplies* (except contractors' materials and supplies in bulk), between Portland, OR, on the one hand, and, on the other, points in WA; *culverts and pipe*, iron or wood, and *accessories* therefor, in lots of not less than 20,000 pounds, from Portland, OR, to points in OR, WA, and ID; *creosoted lumber, poles, piles, and wooden culverts*, and *accessories* therefor, and *culvert staves*, in lots of not less than 20,000 pounds, from St. Helens, OR, to points in OR, WA, and ID; *heavy machinery and machines*, including tractors, *iron, steel, cement, wire, cable, lumber, timbers, pipe, rails, hardware, contractors' and loggers' supplies and equipment*, including grocery and commissary supplies when moved with and as a part of camp equipment, in lots of not less than 20,000 pounds, (except cement and contractors' and loggers' supplies, in bulk), (a) between points in OR, on the one hand, and, on the other, points in WA and ID and (b) between jobsites in OR, WA, and ID; *materials, supplies and equipment*, including portable buildings, required in the construction, operation, maintenance and removal of Civilian Conservation Corps Camps, (a) between Vancouver Barracks, WA, on the one hand, and, on the other, Civilian Conservation Corps Campsites in OR, and (b) between Civilian Conservation Corps Campsites in OR; *prefabricated and frame houses* and *quonset huts*, complete, knocked down or in sections, *equipment and materials* incidental to the erection and completion of such houses, and *household goods* as defined by the Commission, when transported in connection with the transportation by carrier of the houses or huts described above, between points in ID, OR, and WA; *heavy machinery*, and *contractors' equipment and supplies*, which because of size or weight requires special equipment for their transportation, between Seattle, WA, and points within 30 miles of Seattle, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada, at or near Blaine and Sumas, WA; *dry fertilizers and fertilizer compounds*, (except in bulk), between points in OR, MT, and

that part of ID north of the southern boundary of Idaho County, and that part of WA on and east of U.S. Hwy 97; *dry urea,* (except in bulk), from Tacoma, WA, to Kent, WA; (Sub–No. 15—Portions) *commodities,* the transportation of which, by reason of size or weight, requires the use of special equipment, and *related machinery parts* and *related contractor's materials and supplies* when their transportation is incidental to the transportation of the commodities authorized above (except compressed gas in cylinders), between points in ID, OR, and WA; (Sub–No. 17—Portion (1) *commodities,*

the transportation of which because of size or weight requires the use of special equipment, and of *related machinery parts* and *related contractors' materials and supplies* when their transportation is incidental to the transportation of commodities which by reason of size of weight requires special equipment, (except compressed gas in cylinders), (2) *general commodities* (except motor vehicles and motor vehicle cabs and bodies, and except classes A and B explosives), moving in the same vehicle and at the same time in mixed loads with commodities the transportation of which, because of size or weight requires the use of special equipment (otherwise authorized), when the mixed load moves on a single bill of lading from a single consignor, and (3) *self-propelled vehicles,* each weighing 15,000 pounds or more (except motor vehicles as defined in section 203(a)(13) of the Interstate Commerce Act, and vehicles moving in driveaway service), and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in OR and WA, on the one hand, and, on the other, points in MT and UT, with restrictions; (Sub-24) *general* commodities (except specified commodities), in containers and in trailers, having an immediately prior or subsequent movement by water, (a) between points in OR and WA, on the one hand, and, on the other, points in MT and UT, and (b) between points in ID, OR, and WA,; *empty containers, trailers, and trailer chassis,* (a) between points in ID, OR, and WA, and (b) between points in OR and WA, on the one hand, and, on the other, points in MT and UT; (Sub-25) *iron and steel articles,* as described in Appendix V to the report in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, (a) between points in ID, OR, and WA, and (b) between points in OR and WA, on the one hand, and, on the other, points in MT and UT; (Sub-E–21) *commodities,* which because of size or weight require the use of special equipment, and *related machinery parts and related contractors' materials and supplies* when their transportation is incidental to the transportation of the commodities authorized above, restricted against the transportation of boats, between points in UT, on the one hand, and, on the other, points in ID in and north if Idaho, Adams, Washington, Payette, and Gem Counties; (Sub-E–22) *commodities* which because of size or weight require the use of special equipment, and *related machinery parts and related contractors' materials and supplies* when their transportation is incidental to the transportation of the commodities authorized above, restricted against the transportation of boats, between points in Kootenai, Benewah, Latah, Nez Perce, Lewis, Adams, Washington, Payette, Gem, Canyon, and Ada Counties, ID, and in Idaho County, ID, on and west of U.S. Hwy 95, on the one hand, and, on the other, points in MT on and east of US Hwy 93; and (Sub-E–23) *heavy machinery, structural and fabricated iron and steel,* and *such iron and steel articles* as are used in the construction of buildings and bridges, and *contractors' equipment and supplies,* in lots of not less than 20,000 pounds, between points in ID in and south of Adams, Valley, and Lehmi Counties, on the one hand, and, on the other, points in WA in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Cowlitz Counties. Widing is retaining its bulk authority in all its remaining subs, as well as the incidental authority of bulk commodities and compressed gases which is being servered from the heaving hauling authority being transferred above. As it pertains to the authority being transferred, Widing is retaining the following authority: (Sub-8) (a) *commodities* in bulk and *compressed gases* in cylinders, between Portland, OR, and Vancouver, WA, and between points in Portland, OR; (b) *contractors' supplies,* in bulk, minimum 10,000 pounds, between points in Multonomah and Washington Counties, OR, on the one hand, and, on the other, points in OR, WA, and ID, except between Portland, OR, on the one hand, and, on the other, lognview, Fort Steilacoom, Curtis, Lynden, and Ridgefield, WA, and points in WA on specified hwys; (c) *contractors' materials and supplies,* in bulk, between Portland, OR, on the one hand, and, on the other, points in WA; (d) *cement* and *contractors' and loggers' supplies,* in bulk, between points in OR, on the one hand, and, on the other points in WA and ID, and between jobsites in OR, WA, and ID; (e) *dry fertilizers and fertilizer compounds,* in bulk, between points in OR, MT, and that part of ID north of the southern boundary of Idaho County, and that part of WA on and east of US Hwy 97; (f) *dry urea,* in bulk, from Tacoma, WA, to Kent, WA; (Sub-15) *compressed gases* in cylinders, which because of size or weight require the use of special equipment, between points in ID, OR, and WA; and

(Sub-17) *Compressed gases* in cylinders, which because of size or weight require the use of special equipment, between points in OR and WA, on the one hand, and, on the other, points in MT and UT. Gresham is authorized to operate as a motor common carrier, over regular and irregular routes, pursuant to certificates issued in MC 29960 and sub-numbers thereunder.

MC–F–14440F, filed September 15, 1980. (supplemental publication) (previously published in the **Federal Register** issue of October 14, 1980). SOUTH EASTERN XPRESS, INC. (South Eastern) (P.O. Box 6459, Fort Worth, TX 76115)—purchase (portion)—TOMAHAWK TRUCKING, INC. (Tomahawk) (P.O. Box O, Vernal, UT 84078). Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. South Eastern also seeks to purchase that portion of Tomahawk's authority which is evidenced by Certificate MC 115092 (Sub-108F), issued November 5, 1980, and authorizing the transportation, as a motor common carrier, over irregular routes, of *meats, meat products and meat by-products, and articles distributed by meat-packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides), from Laveen, AZ, to points in CA, CO, OK, TX, and UT, restricted to the transportation of traffic originating at the named origin.

Note.—Vendee has requested temporary authority granted in this proceeding be amended to include additional operating authority.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–38937 Filed 12–15–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier 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 at $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.gs., 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 on or before January 30, 1981 (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. OP2–116

Decided: December 2, 1980.

By the Commission Review Board Number 1, Members Carleton, Joyce and Jones.

MC 119192 (Sub-16F), filed November 21, 1980. Applicant: EASTERN DELIVERY SERVICE, INC., 80 Central Avenue, Bridgeport, CT 06607. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. Transporting *shipments weighing 100 pounds or less* in a vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 123133 (Sub-8F), filed November 21, 1980. Applicant: DENNY TRANSPORT, INC., 3405 Industrial Parkway, Jeffersonville, IN 47130. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. 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.

MC 128473 (Sub-22F), filed November 24, 1980. Applicant: MONTANA EXPRESS, INC., P.O. Box 3346, Butte, MT 59701. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. 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.

MC 149473 (Sub-1F), filed November 18, 1980. Applicant: TLX, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski (same address as applicant). 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.

Note.—The person or persons who appear to be engaged in common control with another carrier must either file an application under 49 U.S.C. 11343(a) of the Interstate Commerce Act for approval thereof, or submit an affidavit indicating why such approval is unnecessary.

MC 152933F, filed November 13, 1980. Applicant: CURTIS BROKERAGE, DIV. OF CURTIS, INC., 4810 Pontiac St. Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To engage in operations as a broker arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP2–118

Decided: December 4, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 87113 (Sub-18F), filed November 4, 1980. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St, N.W., Washington, D.C. 20006. 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. Condition: the person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affadavit indicating why such approval is unnecessary.

MC 143483 (Sub-4F), filed November 28, 1980. Applicant: QUIK-HAUL, INC., P.O. Box 699, League City, TX 77573. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. 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.

MC 150502 (Sub-1F), filed November 26, 1980. Applicant: REBANDA TRANSPORTATION, INC., P.O. Box 1003, Healdsburg, CA 95448. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. 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.

MC 152472F, filed October 16, 1980. Applicant: F.A.K., INC., 110 W. Ocean Blvd., Suite 523, Long Beach, CA 90802. Representative: Mary Lou Schmeltzer (same address as applicant). As a *broker*, to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 152812 filed November 21, 1980. Applicant: CLINTON L. JESSUP, 5009 Roblee Drive, Upper Marlboro, MD 20780. Representative: Clinton L. Jessup (same address as applicant). 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 152913F, filed November 25, 1980. Applicant: NORMAN J. LISEE, d.b.a. NORM'S TAXI & LIMOUSINE SERVICE, Berkshire Plaza, North Adams, MA 01247. Representative: David M.

Marshall, 101 State St., Suite 304, Springfield, MA 01103. (1) Motor carrier brokerage of *general commodities* (except household goods), (2) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons) for the United States Government, and (3) *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.

Volume No. OP4–157

Decided: December 9, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 128146 (Sub-7F), filed November 19, 1980. Applicant: TED W. BETLEY, INC., P.O. Box 196, Amberg, WI 54102. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. 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.

Volume No. OP5–079

Decided: December 4, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 146038 (Sub-2F), filed November 17, 1980. Applicant: QUICK SILVER, INC., Box 213, Liberty, MO 64068. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *general commodities* (except used household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 148769 (Sub-5F), filed November 26, 1980. Applicant: SHELDON J. GOLDFIN, d.b.a. NEVADA PRODUCE, 50 Freeport Blvd., Unit No. 17, Sparks, NV 89431. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. 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.

MC 150019 (sub-2F), filed November 19, 1980. Applicant: EDWARD E. GARBER, d.b.a. CUSTOM TRANSPORT, 6600 Sweet Air Lane, Sykesville, MD 21784. Representative: R. Emery Clark; 366 Executive Bldg., 1030 15th St., NW., Washington, DC 20005. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 150239 (sub-3F), filed November 18, 1980. Applicant: PACESETTER TRANSPORT, DIV. OF EDGEMERE TERMINALS, INC., 8004 Stansbury Rd., Baltimore, MD 21222. Representative: R. Emery Clark, 366 Executive Bldg., 1030 15th St. NW., Washington, DC 20005. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 152569F, filed November 6, 1980. Applicant: FREDERICK B. VANDERWERFF, d.b.a. F. V D WERFF, 22218 Yeager Rd., Monroe, WA 98272. Representative: Frederick B. Vanderwerff (same address as applicant). Transporting *food and other edible products (including edible by-products but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers,* by the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

MC 152838F, filed November 25, 1980. Applicant: MALISSA COMPANY, INC., 1112 Haynes Drive, P.O. Box 2502, Leesville, LA 71446. Representative: Marvin E. Haynes, (same address as applicant). 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 152888F, filed November 25, 1980. Applicant: PATRICIA HAWLEY TURNBULL, d.b.a. CWT BROKERAGE, 927 South Moccasin Place, Sapulpa, OK 74066. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73107. To engage in operations as a broker, to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 152889F, filed November 25, 1980. Applicant: HARBOR SERVICE, INC., 4 Alger St., Boston, MA 02127. Representative: John F. O'Donnell, 60 Adams St., Milton, MA 02187. To engage in operations as a broker, to arrange for the transportion of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38936 Filed 12-15-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier 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 C.F.R. 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 F.R. 45539.

Persons 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 exeception of those applications involving duly noted problems (e.gs., 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 on 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. OP2–111

Decided: Decmber 1, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 50493 (Sub-64F), filed November 12, 1980. Applicant: P.C.M. TRUCKING, INC., P.O. Box 249, Kernsville Rd., Orefield, PA 18069. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Transporting *feed and feed ingredients,* from Waverly, NY, to points in CT, MD, OH, PA, and VA.

MC 61592 (Sub-500F), filed November 13, 1980. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: Elisabeth A. DeVine, P.O. Box 737, Moline, IL 61265. Transporting *such commodities* as are dealt in or used by manufacturers, distributors and dealers of (1) agricultural equipment, (2) contruction equipment, and (3) industrial equipment, between the facilities of Ford Tractor Operation, in McComb County, MI, on the one hand, and, on the other, those points in the U.S. west of a line beginning at the mouth of the Mississipi River, and extending along the Mississippi River to junction with the southern boundary of Itasca County, MN, then eastward along the southern boundary of Itasca County to the eastern boundary of Itasca County, then north along the eastern boundaries of Itasca and Koochiching Counties, MN, to the International Boundary Line between the United States and Canada.

MC 71772 (Sub-6F), filed November 18, 1980. Applicant: MT. PLEASANT TRANSFER, INC., P.O. Box 267, Columbia, Highway, Mt. Pleasant, TN 38474. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *general commodities* (except classes A and B explosives) between points in Maury County, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MI, MO, NC, OH, SC, VA, and WV.

Note.—Applicant intends to tack this authority with its existing authority at Columbia and Mt. Pleasant, TN.

MC 111302 (Sub-173F), filed November 24, 1980. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10108, Knoxville, TN 37919. Representative: David A. Peterson (same address as applicant). Transporting *chemicals and petroleum based products,* in bulk, between points in GA, on the one hand, and, on the other, points in the U.S.

MC 128343 (Sub-67F), filed November 17, 1980. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, 1730 M Street, NW, Washington, DC 20036. Transporting *strip steel, flat wire, and band steel,* between points in the U.S., under continuing contract(s) with Newman Crosby Steel Company, Inc., of Pawtucket, RI.

MC 138133 (Sub-60F), filed November 21, 1980. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Representative: William D. Brejcha, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives), between points in Milwaukee, Washington, and Waukesha Counties, WI, on the one hand, and, on the other, points in IA, IL, IN, KS, MI, MN, MO, ND, NE, SD, WI, and the Upper Peninsula of MI.

MC 149432 (Sub-1F), filed November 25, 1980. Applicant: MARC BAGGAGE LINES, INC., 9033 Hollyberry Avenue, Des Plaines, IL 60016. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. Transporting *electrical and electronic products, and materials, supplies and equipment* used in the manufacture, sale, and distribution of electrical and electronic products, between points in the U.S., under continuing contract(s) with GTE Products Corporation, of Danvers, MA.

MC 150432 (Sub-10F), filed November 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.Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, those requiring special equipment, classes A and B explosives, and those of unusual value), between points in Franklin, Pickway, Madison, Licking, and Delaware Counties, OH, and Erie County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150592 (Sub-2F), filed November 24, 1980. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 561, York, NE 68467. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. 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 York County, NE (except the facilities of Sunflower Beef Packers, Inc.) on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151992 (Sub-1F), filed November 12, 1980. Applicant: STOTTLEMIRE TRUCKING COMPANY, INC., 1650 Williams Rd., Columbus, OH 43207. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

MC 152132 (Sub-1F), filed November 13, 1980. Applicant: FRANK PEYERL, P.O. Box 607, Cando, ND 58524. Representative: David C. Britton, 1425 Cottonwood Street, Grand Forks, ND 58201. Transporting *pasta, durum bran and flour* and *foodstuffs,* in bulk, and *machinery and supplies* used in the manufacture of pasta, durum bran and flour and foodstuffs, between the facilities of Noodles by Leonardo, in Towner County, ND, on the one hand, and, on the other, points in the U.S.

MC 152733F, filed November 20, 1980. Applicant: THOMAS NORRIS LIMITED, 508 Berford Street, Wiarton, Ontario, Canada NOH 2TO. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. In foreign commerce, transporting *passengers and their baggage,* in round-trip, special and charter operations, beginning and ending at ports of entry on the international boundary line between the U.S. and Canada, and extending to points in the U.S.

Volume No. OP2–117

Decided: December 2, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 4483 (Sub-29F), filed November 20, 1980. Applicant: MONSON TRUCKING, INC., R.R. #1, RedWing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. Transporting (1) *forest products, lumber or wood products;* except furniture and *pulp, paper or allied products,* as described in Items 08, 24, and 26 in the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment and supplies* for the commodities in (1) above, between the ports of entry on the international boundary line between the U.S. and Canada at or near points in ND, MI, and MN, on the one hand, and, on the other, points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI.

MC 11722 (Sub-76F), filed November 21, 1980. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, 1525 N. E. Weidler, Portland,

OR 97232. Transporting *compressed rags* from points in MT, to points in WA, OR, and CA.

MC 32882 (Sub-151F), filed November 20, 1980. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, Portland, OR 97217. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. Transporting *lift trucks and hydraulic platforms* (aerial or scissor type working lifts), and *parts* for lift trucks and hydraulic platforms, between points in Los Angeles County, CA, on the one hand, and, on the other, those points in the U.S. in and west of MI, OH, KY, TN, AR, and LA (except AZ, CO, KS, MO, NV, UT, TX, HI, and AK).

MC 54203 (Sub-3F), filed November 14, 1980. Applicant: V. SENG TEAMING CO., 600 N. Thomas Dr., Bensenville, IL 60106. Representative: Bernard J. Kompare, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers, converters, printers and distributors of paper and paper products (except in bulk), between points in IA, IL, IN, KS, MO, and WI.

MC 59292 (Sub-43F), filed November 13, 1980. Applicant: THE MARYLAND TRANSPORTATION CO., a corporation, 1111 Frankfurst Ave., Baltimore, MD 21225. Representative: Charles J. Braun, Jr. (same address as applicant). Transporting *containers and container ends,* and (2) *accessories, materials, equipment, and supplies* used in the manufacture, sale and distribution of the commodities in (1) above (except commodities in bulk), between those points in the U.S. in and east of WI, IL, KY, TN, MS, and LA, on the one hand, and, on the other, points in the U.S.

MC 78042 (Sub-20F), filed November 16, 1980. Applicant: BEAROFF BROTHERS, INC., P.O. Box 37, Bridgeport, PA 19405. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *metal,* between points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV.

MC 107012 (Sub-605F), filed November 13, 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 (address same as applicant). Transporting *commercial and institutional furniture and fixtures,* from Auburn, AL, to points in the U.S. (except AK, AL, CA, CO, HI, ID, IL, IN, KS, MI, MO, MT, NE, NV, ND, OH, OR, SD, UT, WA, WI and WY).

MC 107012 (Sub-612F), filed November 24, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *such commodities* as are dealt in or used by manufactures and distributors of laboratory and medical supplies, between points in the U.S.

MC 107403 (Sub-1342F), filed November 24, 1980. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *plastic and plastic articles,* in bulk, in tank vehicles, from points in MA to points in CT, DE, IL, MD, NC, NJ, NY, OH, PA, VA, VT, and WV.

MC 113843 (Sub-289F), filed November 17, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., 5th Floor, Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). Transporting *such commodities* as are dealt in or used by grocery or food business houses and drug and department stores (except commodities in bulk), between points in CO, CT, DE, GA, IA, IL, IN, KS, KY, MA, MD, ME, MI, MO, MN, NE, NH, NJ, NY, PA, OH, RI, TX, VA, VT, WV, and DC.

MC 118612 (Sub-11F), filed November 18, 1980. Applicant: COLUMBIA TRUCKING, INC., 700 131st Place, Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. Transporting *petroleum or coal products* as described in Item 29 of the *Standard Transportation Commodity Code Tariff,* between points in Lake County, IN and WI.

MC 119493 (Sub-403F), filed November 16, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, (same address as applicant). Transporting *animal and poultry feed supplements* (except in bulk) from Ft. Worth, TX, to points in AL, LA, MS, GA, CO, FL, and TN.

MC 125433 (Sub-444F), filed November 18, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 So. Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *paper and paper products* between the facilities of Orchid Paper Products Corporation in AZ, OK, OR, and CA, on the one hand, and, on the other, points in the U.S.

MC 125533 (Sub-43F), filed November 17, 1980. Applicant: GEORGE W. KUGLER, INC., 2800 E. Waterloo Road, Akron, OH 43215. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Transporting *metals and metal products,* between Pottstown, PA, on the one hand, and, on the other, points in CT, DE, IN, IL, MD, NJ, NY, OH, and VA.

MC 128343 (Sub-68F), filed November 19, 1980. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW., Washington, DC 20036.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 Kaiser Aluminum and Chemical Corporation, of Oakland, CA.

MC 138493 (Sub-8F), filed November 20, 1980. Applicant: JAKUM TRUCKING, INC., Rural Route 2, Miley Road, Sheboygan, WI 53085. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting *foodstuffs and materials, equipment and supplies* used in the manufaction and distribution of foodstuffs, between points in the U.S. (except AK and HI), under a continuing contract(s) with Sargento Cheese Co, of Plymouth, WI.

MC 138882 (Sub-376F), filed November 19, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities (except household goods, as defined by the Commission, classes A and B explosives, commodities in bulk, in tank vehicles, and those requiring special equipment),* between points in the U.S. (except AK and HI), retricted to traffic originating at or destined to the facilities used by (a) the International Paper Company, (b) Midland Glass Company, Inc., and (c) Goodsons' Manufacturing Corporation.

MC 144503 (Sub-34F), filed November 24, 1980. Applicant: ADAMS REFRIGERATED EXRESS. INC., P.O. Box F, Forest Park, GA 30050. Representative: Charles L. Redel, 212 Hoeschler Exchange Building, La Crosse, WI 54601. Transporting (1) *foodstuffs* and (2) *such commodities* as are dealt in by retail gift shops and catalog distribution centers, in vehicles equipped with mechanical refrigeration, from the facilities of (a) The Swiss Colony, Inc., at Monroe, WI, and (b) The Swiss Colony Stores, Inc., at Madison, WI, to points in the U.S.

MC 146703 (Sub-20F), filed November 25, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrence D.

Jones, 2033 K St., NW., Washington, DC 20006. Transporting *such commodities* as are dealt in by grocery and food business houses between points in the U.S., on the one hand, and, on the other, points in El Paso County, TX.

MC 149393 (Sub-1F), filed November 14, 1980. Applicant: DARRELL D. MADDEN, d.b.a. DARRELL D. MADDEN TRUCKING, Route 1, Boone, IA 50036. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *such commodities* as are dealt in or used by food business houses, from points in MI, IN, IL, WI, MN, and OH to Boone, IA.

MC 151213 (Sub-1F), filed November 25, 1980. Applicant: S. KENNETH PUCKETT, 8638 Hayshed Lane, Columbia, MD 21045. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) *such commodities* as are dealt in by retail department stores, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Altavista, Lynchburg and Martinsville, VA on the one hand, and, on the other, points in NC.

MC 152282 (Sub-1F), filed November 24, 1980. Applicant: FLOYD DUENOW, INC., P.O. Box 86, Savage, MN 55378. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. Transporting *such commodities* as are dealt in or used by manufacturers, distributors and dealers of farm machinery and farm machinery parts, between points in the U.S., under continuing contract(s) with NFD, Inc., of Braham, MN.

Volume No. OP2–119

Decided: December 4, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 24223 (Sub-6F), filed November 25, 1980. Applicant: E. KIRKPATRICK, SR. TRUCKING CO., a corporation, 911 College, Quincy, IL 62301. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *such commodities* as are dealt in or used by manufacturers of feed, pesticides, animal and poultry health products, and feeders, between points in the U.S., under continuing contract(s) with Moorman Manufacturing Co., of Quincy, IL.

MC 32882 (Sub-153F), filed November 29, 1980. Applicant: MITCHELL BROS. TRUCK LINES, a corporation, 3841 North Columbia Boulevard, Portland, OR 97217. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. Transporting *iron and steel scaffolding*, between points in Orange County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 41932 (Sub-15F), filed November 24, 1980. Applicant: BROWNING FREIGHT LINES, INC., 650 South Redwood Rd., Salt Lake City, UT 84104. Representative: Ronald D. Browning, 1321 S. W. Water Ave., Portland, OR 97214. Transporting *general commodities* (except household goods as defined by the Commission), serving the facilities of Freeport Gold Company, at Jarritt Canyon, NV, as an off-route point in connection with carrier's otherwise authorized regular-route operations. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issuance.

MC 47583 (Sub-135F), filed November 25, 1980. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Rd., Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Transporting: (1) *Charcoal briquettes*, and (2) *materials, equipment and supplies used* in the manufacture, sale and distribution of the commodities in (1) above, between points in Dent County, MO and Lunenburg County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 56213 (Sub-15F), filed November 25, 1980. Applicant: RICHARD L. KINARD, INC., 1100 West Locust Street, York, PA 17404. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, NW., Washington, DC 20005. Transportation of *general commodities* (except commodities in bulk, classes A and B explosives, household goods as defined by the Commission, those of unusual value, and those requiring special equipment), (1) from the facilities of Armstrong World Industries, in Lancaster County, PA, to points in IL, IA, MN, ND, SD, WI, OH, IN and MI; and (2) from the facilities of Armstrong World Industries, at Kankakee, IL, to points in PA, NJ, NY, MD, DE, IA, MN, ND, SD, WI, and DC.

MC 60012 (Sub-103F), filed November 26, 1980. Applicant: RIO GRANDE MOTOR WAY, INC., 1400 West 52nd Ave., Denver, CO 80221. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *iron and steel articles*, between points in AZ, CO, ID, KS, NM, UT, and WY.

MC 71652 (Sub-50F), filed November 25, 1980. Applicant: BYRNE TRUCKING, INC., P.O. Box 280, Medford, OR 97501. Representative: David J. Stewart (same address as applicant). Transporting *steel articles* between points in Box Elder County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, WA and WY.

MC 98542 (Sub-13F), filed November 25, 1980. Applicant: COLLINS & SIMMONS, INC., Commerce Drive, Box 128, Dansville, NY 14437. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Transporting (1) *plastics and plastic articles*, and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of Mobile Chemical Company.

MC 107012 (Sub-613F), filed November 26, 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). Transporting (1) *books, toys, games, paper products, telescopes, microscopes, and chemistry sets*, and (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, parts and supplies* used in the manufacture of the commodities in (1) and (2) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Western Publishing Company, Inc.

MC 107012 (Sub-614F), filed November 26, 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). Transporting (1) *floor coverings* and (2) *parts, accessories and materials* used in the installation and distribution of floor coverings, from Lancaster and Landisville, PA, and points in GA, to points in IA, IL, IN, MN, ND, NE, OH, PA, SD, and WI.

MC 107012 (Sub-617F), filed November 26, 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 (address same as applicant). Transporting *store displays and floor storage cases*, from New Castle, VA, to points in AL, CT, DE, FL, GA, IA, KY, LA, MA, MD, ME, MN, MS, NC, ND, NH, NJ, NY, PA, RI, SC, SD, TN, VT, and WV.

MC 107012 (Sub-619F), filed November 28, 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 (address same as applicant). Transporting (1) *evaporative cooling*

systems, and (2) *parts and supplies* used in the manufacture, maintenance, and distribution of the commodities in (1) above, from Tempe, AZ, to points in CA, CO, NM, NV, OK, OR, ID, TX, UT, and WA.

MC 109173 (Sub-5F), filed November 18, 1980. Applicant: MICHIGAN TRAILWAYS, INC., 12154 N. Saginaw Road, Clio, MI 48420. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Over *regular routes*, transporting *passengers and their baggage*, and *newspapers and express in the same vehicle with passengers*, between Big Rapids, MI and Toledo, OH: from Big Rapids, MI over MI Hwy 20 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction MI Hwy 46, then over MI Hwy 46 to junction Interstate Hwy 675, then over Interstate Hwy 675 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction U.S. Hwy 23, then over U.S. Hwy 23 and Interstate Hwy 475 to Toledo, OH, and return serving all intermediate points, and serving the off-route points of Ann Arbor and Flint, MI.

MC 111432 (Sub-10F), filed November 28, 1980. Applicant: FRANK J. SIBR & SONS, INC., 5240 West 123rd Place, Alsip, IL 60658. Representative: Douglas G. Brown, The INB Center, Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *chemicals*, between points in the U.S., under continuing contract(s) with Overdale Corporation, of Alsip, IL.

MC 111812 (Sub-745F), filed November 28, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). Transporting (1) *foodstuffs* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities in (1) above (except commodities in bulk), between points in CA and WY.

MC 115092 (Sub-125F), filed November 24, 1980. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Transporting *flat glass and glass glazing units* between Truesdail and St. Louis, MO, on the one hand, and, on the other, those points in the U.S. in and west of MN, IA, MO, AR, and LA.

MC 117692 (Sub-7F), filed November 28, 1980. Applicant: MAURICE TRANSPORT CO., a corporation, P.O. Box 365, Morton, IL 61550. Representative: Douglas G. Brown, The INB Center, Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *petroleum and petroleum products*, between points in the U.S., under continuing contract(s) with Amoco Oil Company, of Chicago, IL.

MC 119493 (Sub-404F), filed November 26, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). Transporting (1) *metal and metal articles* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from points in Box Elder County, UT, to points in AZ, CA, CO, ID, MT, NM, NV, OR, WA, and WY, restricted to traffic originating at or destined to facilities owned, or used by Nucor Corporation.

MC 119793 (Sub-16F), filed November 25, 1980. Applicant: D & W TRUCK LINES, INC., 209 First St., Parsons, WV 26287. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC. 20001. Transporting *commodities* in bulk, between points in the U.S., under continuing contract(s) with The Kingsford Company, of Louisville, KY.

MC 125433 (Sub-448F), filed November 25, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of pollution control equipment, between points in the U.S.

MC 125952 (Sub-50F), filed November 24, 1980. Applicant: INTERSTATE DISTRIBUTOR CO., a corporation, 8311 Durango S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. Transporting *such commodities* as are dealt in by wholesale and retail department and grocery stores, between points in the U.S., under continuing contract(s) with Fred Meyer, Inc., and Roundup Company, both of Portland, OR, and Sunshine Biscuits, Inc., of Oakland, CA.

MC 128883 (Sub-8F), filed November 28, 1980. Applicant: NORTH IOWA EXPRESS, INC., 1921 N.E. 58th Ave., Des Moines, IA 50313. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in IA, NE, MN, and WI.

MC 135052 (Sub-34F), filed November 21, 1980. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster St., Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg, 320 North Meridian St., Indianapolis, IN 46204. Transporting *plastic articles and materials, equipment, and supplies* used in the manufacture and distribution of plastic articles, (except commodities in bulk, in tank vehicles), between Reading, PA, on the one hand, and, on the other, points in LA, and those in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Kooshiching Counties, MN, to the international boundary line between the U.S. and Canada (except LA).

MC 136343 (Sub-229F), filed November 26, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. Transporting *(1) toilet preparations and cleaning products, and (2) materials, equipment, and supplies* used in the manufacture and distribution of toilet preparations and cleaning products between those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 139973 (Sub-86F), filed November 25, 1980. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *woodburning stoves*, from Bradley, IL, to points in the U.S.

MC 143002 (Sub-24F), filed November 28, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave. Neenah, WI 54956. Transporting *general commodities*, between points in the U.S., under continuing contract(s) with Shannon Industrial Corporation, of Schaumburg, IL. Condition: To the extent any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 145873 (Sub-1F), filed November 26, 1980. Applicant: RAMSEY TRUCKING, INC., 604 Hudson Rd., Chattanooga, TN 37405. Representative: Billy R. Ramsey (same address as applicant). Transporting *coke*, in dump vehicles, between points in AL, GA, MS,

and TN, restricted to traffic having a prior or subsequent movement by water.

MC 145993 (Sub-1F), filed November 26, 1980. Applicant: SUPERIOR ASSEMBLY & DISTRIBUTION CENTER, INC., 970 E. Third St., Los Angeles, CA 90013. Representative: Ronald N. Cobert, 1730 M St., NW, Suite 501, Washington, DC 20036. 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 Streamline Shippers Association, Inc., of Los Angeles, CA.

MC 146213 (Sub-10F), filed November 25, 1980. Applicant: JAMES P. DOYLE, d.b.a. J. DOYLE TRUCKING, P.O. Box 76, Wisconsin Dells, WI 53965. Representative: David V. Purcell, 111 East Wisconsin Ave., Milwaukee, WI 53202. Transporting *foodstuffs* (except in bulk), between the facilities of Sanna Division of Beatrice Foods Co., at points in Eau Claire, Barron, Dunn, and Wood Counties, WI, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC.

MC 148183 (Sub-33F), filed November 25, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348, Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *cheese and cheese products* from points in Rutherford County, TN, to points in MA and MI.

MC 148183 (Sub-34F), filed November 25, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Industrial Blvd., Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348, Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. Transporting *malt beverages and materials, equipment, and supplies* used in the manufacture, and distribution of malt beverages, between the facilities of The Stroh Brewery Company, at Detroit, MI, and points in GA.

MC 150592 (Sub-3F), filed November 25, 1980. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 561, York, NE 68467. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. Transporting *pulp, paper, or allied products* as described in Item 26 of the *Standard Transportation Commodity Code Tariff*, between points in Jackson County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152063 (Sub-1F), filed November 29, 1980. Applicant: P.E.G. TRUCKING, INC., 600 Washington St., Wrentham, MA 02093. Representative: Samuel L. Watts, 54 Middlesex Turnpike, Burlington, MA 01803. Transporting (1) *sprinkler systems and parts for sprinkler systems*, and (2) *materials, equipment and supplies* used in the manufacture, sale, installation, and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI).

MC 152412 (Sub-1F), filed November 25, 1980. Applicant: VANEERDEN TRUCKING COMPANY, INC., 1150 Freeman Avenue, S.W., Grand Rapids, MI 49503. Representative: J. Michael Smith, 465 Old Kent Building, Grand Rapids, MI 49503. Transporting *such commodities* as are dealt in by food business houses, between points in the U.S., under continuing contract(s) with Van Eerden Produce Company, of Grand Rapids, MI.

MC 152922F, filed November 25, 1980. Applicant: RONALD L. KIEFFER, R.D. No. 2, Box 23, Honey Brook, PA 19344. Representative: John W. Metzger, 49 North Duke Street, Lancaster, PA 17602. Transporting *agricultural limestone*, from points in Lancaster County, PA, to points in, NJ, DE, and, MD, and (2) from Viola and Laurel, DE, to Salisbury, MD, and points in VA and MD.

MC 152923F, filed November 28, 1980. Applicant: BNP TRUCKING, INC., 206 Dexter Ave., Watertown, MA 02172. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Transporting (1) *iron and steel articles*, and (2) *materials and supplies* used in the manufacture of iron and steel article, between points in MA, on the one hand, and, on the other, points in CT, DE, IN, ME, MD, NH, NJ, NY, OH, PA, RI, SC, and VT.

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Decided: December 4, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 2923 (Sub-5F), filed November 26, 1980. Applicant: DAVE'S TRUCKING COMPANY, INC., 31 Purdy Avenue, Port Chester, NY 10573. Representative: Roy A. Jacobs, Esq., 550 Mamaroneck Avenue, Harrison, NY 10528. Transporting *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading) between New York, NY, points in Passaic, Bergen, Hudson, Essex, Union, Morris, Hunterdon, Warren and Somerset Counties, NJ, and Westchester County, NY on the one hand, and, on the other, points in CT.

MC 14623 (Sub-1F), filed November 19, 1980. Applicant: G. C. HEMPHILL TRUCKING, INC., P.O. Box 404, Burgettstown, PA 15021. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting (1) *non-ferrous metals, metallic ores, chemicals, ferro-tungsten* and *ferro-molybdenum*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, between points in DE, MI, MD, OH, PA, KY, NY, NJ, WV and VA, restricted to traffic originating at or destined to the facilities of Amax, Inc.

MC 56213 (Sub-13F), filed November 20, 1980. Applicant: RICHARD L. KINARD, INC., 1100 West Locust St., York, PA 17404. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St. NW., Washington, DC 20005. Transporting (1) *malt beverages*, from points in NY, NJ, NC, MD, OH, GA, and WI, to Lancaster and York, PA, (2) *empty malt beverage containers*, in the reverse direction, and (3) *snack foods*, from York, PA, to points in NY, NJ, CT, OH, MD, MA, VA, DE, WV, RI, MI, IL, IN, and DC.

MC 59292 (Sub-42F), filed November 14, 1980. Applicant: THE MARYLAND TRANSPORTATION CO., a corporation, 1111 Frankfurst Ave., Baltimore, MD 21225. Representative: Charles J. Braun, Jr. (same address as applicant). Transporting (1) *paper and paper products*, (2) *building products*, (3) *plastic and plastic products*, (4) *chemicals* (except commodities in bulk, and (5) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), (2), (3), and (4) above (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Union Camp Corp.

MC 72243 (Sub-71F), filed November 25, 1980. Applicant: THE AETNA FREIGHT LINES, INC., 2507 Youngstown Rd. SE., P.O. Box 350, Warren, OH 44482. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting *commodities*, the transportation of which because of size or weight requires the use of special equipment, between points in IL, WI, MI, IN, OH, PA, NY, DE, MD, CT, MA, NJ, WV, and DC, and points in Accomack and Northampton Counties, VA, and Richmond, VA.

MC 80653 (Sub-29F), Applicant: DAVID GRAHAM CO., a corporation, P.O. Box 254, Levittown, PA, 19059. Representative: Paul F. Sullivan, 711

Washington Bldg., Washington, DC 20005. Transporting (1) *machinery, machine parts,* (2) *building materials,* (3) *firebrick, lumber and lumber products,* (4) *commodities* the transportation of which because of size or weight require the use of special equipment, and (5) *self-propelled articles,* each weighing 15,000 lbs. or more (restricted to traffic moving on trailers) (a) between points in NY, NJ, PA, WV, DE, MD, NC, VA, MA, RI, CT, OH and DC; (b) between points in the area namd in (1) above, on the one hand, and, on the other, points in IL, IN, KY, and MI.

MC 98542 (Sub-12F), filed November 11, 1980. Applicant: COLLINS & SIMMONS, INC., Commerce Dr., Box 128, Dansville, NY 14437. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Transporting (1) *paper products and printed matter,* and (2) *materials, equipment, and supplies* used in the manufacure and distribution of the commodities in (1) above, between points in Monroe County, NY, on the one hand, and, on the other, those points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada, and TX.

MC 99653 (Sub-20F), filed November 19, 1980. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 763, Pell City, AL 35125. Representative: Thomas A. Flemming, Jr. (same address as applicant). Transporting (1) *pipe and fittings and accessories* for pipe, (2) *iron and steel articles* (except pipe), and (3) *contractors equipment and supplies* (except the commodities in (1) and (2) above), between points in Jefferson, Mobile, Montgomery, and St. Clair Counties, AL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Note.—Applicant states it intends to tack with its existing authority.

MC 106523 (Sub-10F), filed November 18, 1980. Applicant: CARLSON TRANSPORT, INC., P.O. Box 20214, Billings, MT 59104. Representative: Charles A. Murray, Jr., 2822 Third Ave. N., Billings, MT 59101. Transporting (1) *commodities* the transportation of which because of size or weight requires the use of special equipment, and (2) *construction materials, equipment, and supplies* (except the commodities in (1) above), between points in MT, on the one hand, and, on the other, points in CO, ID, ND, SD, and WY.

MC 107012 (Sub-609F), filed November 13, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (address same as applicant). Transporting *wood, pulp, paper and paper products,* from Columbus, MS to points in the U.S. (except AK and HI).

MC 109533 (Sub-133F), filed November 19, 1980. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1000 Semmes Ave., Richmond, VA 23224. Representative: William C. Evans, Suite 1100, 1660 L St., NW., Washington, DC 20036. Over *regular routes* 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), (1) between Philadelphia, PA and Scranton, PA: from Philadelphia, PA, over PA Hwy 309 to junction U.S. Hwy 11, then over U.S. Hwy 11 to Scranton, and return over the same route. (2) Between Philadelphia, PA, and junction U.S. Hwy 22 and PA Hwy 309: from Philadelphia, PA, over PA Hwy 611 to Easton, PA, then over U.S. Hwy 22 to junction PA Hwy 309, and return over the same route. (3) Between Scranton, PA, and Harrisburg, PA: from Scranton, PA, over U.S. Hwy 11 to junction U.S. Hwy 22, then over U.S. Hwy 22 to Harrisburg, PA, and return over the same route, serving all intermediate points in parts (1), (2), and (3). (4) Serving points in Dauphin and Lancaster Counties, PA as off-route points in connection with carrier's otherwise authorized regular route operations. Applicant indicates intention to tack with existing authority.

MC 109533 (Sub-134F), filed November 19, 1980. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1000 Semmes Ave., Richmond, VA 23224. Representative: William C. Evans, Suite 1100, 1660 L St., NW., Washington, DC 20036. Over *regular routes 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), (1) between Birmingham, AL and Fort Worth, TX: from Birmingham over U.S. Hwy 11 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Fort Worth, and return over the same route, (2) between Atlanta, GA and junction U.S. Hwys 80 and 11, near Cuba, AL: from Atlanta over U.S. Hwy 29 to junction U.S. Hwy 80 then over U.S. Hwy 80 to junction U.S. Hwy 11, and return over the same route, serving River View, AL as an off-route points, and (3) between Memphis, TN and Dallas, TX: from Memphis over U.S. Hwy 70 to Little Rock, AR, then over U.S. Hwy 67 to Dallas, and return over the same route, serving all intermediate points on routes (1), (2), and (3) above.

Note.—Applicant states it intends to tack the authority herein with its existing authority and any authority it may acquire in the future.

MC 112713 (Sub-318F), filed November 24, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same address as applicant). Transporting *horticultural building materials and plant food,* between points in AL, AZ, AR, CA, CO, FL, GA, IL, KS, KY, LA, MD, MA, MI, MN, MO, MS, NE, NJ, NY, NC, OH, OK, OR, PA, SC, TN, TX, WA, and WI, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 113362 (Sub-409F), filed November 21, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC. 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting (1) *meats and meat by-products,* and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Palestine, TX, on the one hand, and, on the other, those points in the U.S., in and east of ND, SD, NE, KS, OK, AR, and LA.

MC 114273 (Sub-772F), filed November 24, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *meats, meat products and meat byproducts, 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 commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in CT, DE, ME, MD, MA, NJ, NH, NY, PA, RI, VT, VA, WV, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, and DC.

MC 114312 (Sub-35F), filed November 12, 1980. Applicant: ABBOTT TRUCKING, INC., Route 3, Box 74, Delta, OH 43515. Representative: A. Charles Tell, 100 E. Broad St., Columbus,

OH 43215. Transporting *animal feeds,* between points in Wayne County, IN, on the one hand, and, on the other points in MI and OH.

MC 115592 (Sub-5F), filed November 11, 1980. Applicant: VERNON JENNIGES, d.b.a. JENNIGES TRANSFER, Springfield, MN 56087. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402. Transporting (1) *clay products* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. under continuing contract(s) with Ochs Brick & Tile Company, of Springfield, MN.

MC 123993 (Sub-86F), filed November 18, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting (1) *paper bags, plastic bags, burlap bags, woven paper fabric bags, wrapping paper, burlap bagging and woven paper fabric bagging,* and (2) *materials and supplies* used in the manufacture, sale or distribution of the commodities named in (1) above between points in the U.S. (except AK and HI) restricted to traffic originating at or destined to the facilities of Chase Bag Co.

MC 123993 (Sub-88F), filed November 17, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting *general commodities* (except classes A and B explosives, and household goods, as defined by the Commission), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of ConAgra, Inc.

MC 124692 (Sub-348F), filed November 14, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *laminated wood products and furniture,* between Teutopolis, IL, on the one hand, and, on the other, points in the U.S.

MC 124692 (Sub-350F), filed November 28, 1980. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in WA, OR, ID, MT, WY, ND, SD, MN, WI, KS, NE, MO, ID, IL, KY, OH, and MI, restricted to traffic having an immediately prior or subsequent movement by rail.

MC 125433 (Sub-445F), filed November 18, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 So. Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *paper and paper products, and materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk) between points in the U.S.

MC 125433 (Sub-446F), filed November 21, 1980. Applicant: F-B TRUCKING LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *railroad track materials,* and (2) *equipment and supplies* used in the laying and removing of the commodities in (1) above, between points in the U.S.

MC 134022 (Sub-33F), filed November 20, 1980. Applicant: RICHARD A ZIMA, d.b.a. ZIPCO, P.O. Box 715, West Bend, IL 53095. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting (1) *foodstuffs and materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, and (2) *such commodities* as are sold in retail gift and curio shops, (except foodstuffs) between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135082 (Sub-117F), filed November 28, 1980. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, Albuquerque, NM 87125. Representative: Robert G. Russell (same address as applicant). Transporting (1) *boron compounds,* and (2) *materials* used in the manufacture of boron compounds, between points in Maricopa County, AZ, on the one hand, and, on the other, points in the U.S.

MC 135152 (Sub-45F), filed November 19, 1980. Applicant: CASKET DISTRIBUTORS, INC., R.R. #2, P.O. Box 327, West Harrison, IN 45030.Representative: Jack B. Josselson, 700 Atlas Bank Bldg., 524 Walnut St., Cincinnati, OH 45202. Transporting *household cleaning products* between Chicago, IL, on the one hand, and, on the other, points in the U.S.

MC 142513 (Sub-10F), filed November 11, 1980. Applicant: BIRK TRANSFER, INC., 360 Wheatland Ave., Conemaugh, PA 15909. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *lumber or wood products* (except furniture), *clay, concrete, glass or stone products, primary metal products,* including galvanized; except coating or other allied processing, *fabricated metal products* (except ordnance), *machinery* (except electrical) and *transportation equipment,* as described in Items 24,32, 33, 34, 35, and 37 respectively, in the Standard Transportation Commodity Code Tariff, between points in DE, MD, NJ, NC, OH, PA, and SC.

MC 144592 (Sub-8F), filed November 21, 1980. Applicant: WAYDENS HEAVY HAULERS, INC., 1400 North 6th Ave., Hiawatha, IA 52233. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *machinery and machine parts,* (2) *electrical and electronic components,* and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in the U.S., under continuing contract(s) with Thomas and Betts, Inc., of Iowa City, IA.

MC 144843 (Sub-4F), filed November 17, 1980. Applicant: GRACE DISTRIBUTION SERVICES, INC., P.O. Box 308, Duncan, SC 29334. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Chemed Corporation, of Cincinnati, OH, Green & Kellog, Inc., of Tonawanda, NY, The Veratex Corporation, of Troy, MI, and Tidi Products, Inc., of Pomona, CA.

MC 145102 (Sub-69F), filed November 24, 1980. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting (1) *cheese and cheese products,* from points in Champaign and Stark Counties, IL, Barry, Green, and Jasper Counties, MO, and Brown, Calumet, Dodge, Outagamie, and Sheboygan Counties, WI, to points in the U.S. (except AK, HI, IN, OK, and TX), and (2) *foodstuffs and specialty gift items,* from points in Dane and Green Counties, WI, to points in the U.S.

MC 146213 (Sub-9F), filed November 21, 1980. Applicant: JAMES P. DOYLE, d.b.a. J. DOYLE TRUCKING, P.O. Box 76, Wisconsin Dells, WI 53965. Representative: Jack Meyer, 111 East Wisconsin Ave., Milwaukee, WI 53202. Transporting (1) *vinyl products,* between points in Broward County, FL on the one hand, and, on the other, Chicago, IL, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of vinyl products, between points in

Broward County, FL, on the one hand, and, on the other, points in NJ, Fairfield County, CT, Suffolk County, NY, Cuyahoga and Lucas Counties, OH, Westmoreland County, PA, Bradley County, IN, and New York, NY.

MC 146553 (Sub-1F), filed November 19, 1980. Applicant: ADRIAN CARRIERS, INC., 1826 Rockingham Rd., Davenport, IA 52808. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting: *castings,* from points in IL and MI, to Los Angeles, CA.

MC 146703 (Sub-19F), filed November 24, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd,. Kansas City, MO 44133. Representative: Terrance D. Jones, 2033 K St., NW., Washington, DC 20006. Transporting *food and kindred products,* as described in item 20 of the Standard Transportation Commodity code Tariff, between points in the U.S. Condition: Coincidental cancellation of MC–146703 Sub 11, upon issuance of a certificate in this proceeding.

Note.—Applicant relies on traffic studies rather than shipper support for the authority sought.

MC 148822 (Sub-8F), filed November 29, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Ave., Fairfield, AL 35064. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203.Transporting (1) *metal products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of metal products, between points in the U.S., under continuing contract(s) with Tyler-Kalt, Inc., of Olive Branch, MS.

MC 148952 (Sub-1F), filed November 20, 1980. Applicant: JOHN G. GALVIN, d.b.a. INSTANT CARGO EXPRESS, P.O. Box 658, Derry, NH 03038. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. 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 MA, ME, NH and VT.

MC 150183 (Sub-3F), filed November 25, 1980. Applicant: CASSCO REFRIGERATED TRANSPORT, Division of Cassco Corporation, 125 W. Bruce St., Harrisonburg, VA 22801. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting *printed material,* from Harrisonburg, VA to those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada.

MC 150432 (Sub-9F), filed November 20, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L St. NW., Suite 1111, Washington, DC 20036. Transporting *boiler parts, boiler tubes, and structural steel,* between points in the U.S., under continuing contract(s) with Zurn Industries, of Erie, PA.

MC 150842 (Sub-1F), filed November 18, 1980. Applicant: SPURGEON TRUCKING, INC., P.O. Box 33, Millville, WV 25432. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740.Transporting *crushed stone and asphalt,* between points in Jefferson County, WV, on the one hand, and, on the other, points in MD, VA, and DC.

MC 151152 (Sub-1F), filed November 25, 1980. Applicant: HIGHWAY MERCHANDISE EXPRESS, INC., 535 Secaucus Rd., Secaucus, NJ 07094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *garments, on hangers* and (2) *such commodities* as are dealt in or used by department stores, (except garments on hangers) and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above, between points in the US (except AK and HI).

MC 151312 (Sub-1F), filed November 18, 1980. Applicant: NORTHWEST FREIGHTLINES, INC., E. 604 Montgomery Ave., Spokane, WA 99207. Representative: Donald A. Ericson, 708 Old National Bank Bldg., Spokane, WA 99201. Transporting *lumber, particleboard, hardboard, shakes, and doors,* between points in the U.S., under continuing contract(s) with Weyerhaeuser Company, of Tacoma, WA.

MC 151352 (Sub-1F), filed November 25, 1980. Applicant: E.L.M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 36801. Representative: Terry P. Wilson, 428 S. Lawrence St., Montgomery, AL 36104. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), between points in the U.S., under continuing contract(s) with Kimberly Clark Corporation, of Neenah, WI.

MC 152402 (Sub-1F), filed November 14, 1980. Applicant: DALE KOTTWITZ, d.b.a. KOTTWITZ HAULING SERVICE, 1710 West Eight St., Hastings, NE 68901. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting *feed ingredients and fertilizer materials,* between points in Fillmore County, NE, on the one hand, and, on the other, points in NM and UT.

MC 152762F, filed November 21, 1980. Applicant: CHARRON TRANSPORT LIMITED, 274 Sandys St., Chatham, Ontario Canada N7L 3P8. Representative: Norman Charron (same address as applicant). Transporting *steel sheets,* between points in the U.S., under continuing contract(s) with Libby McNeill & Libby of Canada, a Division of Nestle Enterprises Limited, of Chatham, Ontario, Canada.

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Decided: Dec. 3, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 63165 (Sub-537F), filed November 21, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *self-propelled articles* and (2) *commodities* requiring the use of special equipment, between points in DuPage County, IL, on the one hand, and, on the other, points in the U.S.

MC 106074 (Sub-450F), filed November 19, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and U.S. Hwy 221, S., Forest City, NC 28043. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *hand tools and saw blades,* from Ogden, UT to points in AZ, CA, and NV.

MC 107295 (Sub-1007F), filed November 21, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting (1) *fabricated pipe* and *pipe fittings,* from Commerce, CO, to points in the U.S.; and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction.

MC 111545 (Sub-304F), filed November 7, 1980. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Rd., SE., Marietta, GA 30067. Representative: J. Michael May (same address as applicant). Transporting (1) *classes A and B explosives,* (2) *weapons and ammunition* designated sensitive by the U.S. Government, and (3) *source, special nuclear,* and *by-product materials, radioactive materials, shipping containers, nuclear equipment* and

parts, and *materials and supplies* used in the handling, processing or treatment of radioactive materials, between points in the U.S. (including AK but excluding HI).

MC 116544 (Sub-234F), filed November 20, 1980. Applicant: ALTRUK FREIGHT SYSTMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *household appliances,* and *materials, equipment and supplies* used in the manufacture and distribution of household appliances, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of the Hoover Company.

MC 116544 (Sub-235F), filed November 21, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303 Transporting (1) *foodstuffs, and ingredients,* and (2) *materials, equipment, and supplies* used in the production, sale, and distribution of the commodities in (1) above, between points in Maricopa County, AZ, on the one hand, and, on the other, points in CA, CO, GA, ID, IL, KS, MD, MN, MO, MT, NM, NV, OK, OR, TX, UT, VA, WA, and WI.

MC 116915 (Sub-126F), filed November 18, 1980. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting (1) *heating, cooling and dust collecting apparatus, blower systems, furnace coils, and dust arresters* (2) *machinery and parts* for machinery (except commodities in (1) above), (3) *iron and steel articles,* (except commodities in (1) and (2) above), and (4) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), (2), and (3) above (except commodities in bulk), between points in Jefferson County, AL, Madison County, IL, Cuyahoga County, OH, and Wayne County, MI, on the one hand, and, on the other, points in the U.S.

MC 116915 (Sub-127F), filed November 18, 1980. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *non-ferrous metals* and *non-ferrous metal products,* between points in the U.S.

MC 134105 (Sub-548F), filed November 16, 1980. Applicant: CELERYVALE TRANSPORT INC., 1706 Rossdille Ave., Chattanooga, TN 37408. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in the U.S., restricted to traffic originating at or destined to the facilities of The Kroger Company and its subsidiaries.

MC 134105 (Sub-549F), filed November 25, 1980. Applicant: CELERYVALE TRANSPORT INC., 1706 Rossdille Ave., Chattanooga, TN 37408. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by frozen food processors, between the facilities of Morton Frozen Foods, at (a) Russelville and Searcy, AR, and (b) Crozet, VA, on the one hand, and, on the other, those points in the U.S., in and east of ND, SD, NE, CO, OK, and TX.

MC 134404 (Sub-68F), filed November 25, 1980. Applicant: AMERICAN TRANS–FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., (except AK and HI), under a continuing contract(s) with McGraw Hill Book Company, Division of McGraw Hill, Inc., of New York, NY.

MC 138824 (Sub-39F), filed November 21, 1980. Applicant: REDWAY CARRIERS, INC., P.O. Box 104, Waukegan, IL 60085. Representative: Paul J. Maton, 10 S. La Salle St., Room 1620, Chicago, IL 60603. Transporting *automotive parts, materials and supplies* used in the manufacture of automobiles, between points in the U.S., under continuing contract(s) with American Motors Corporation, of Kenosha, WI.

MC 140484 (Sub-84F), filed November 19, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). Transporting *foodstuffs,* from points in Mercer County, PA, to points in FL.

MC 142835 (Sub-12F), filed November 21, 1980. Applicant: CARSON MOTOR LINES, INC., P.O. Box 337, Auburndale, FL 33823. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, from the facilities of National Fruit Product Co., at (a) Winchester and Timberville, VA, (b) Martinsburg, WV, (c) Kent City, MI, and (d) Lincolnton, NC, to points in AL, CT, FL, GA, IL, IN, KY, MD, MA, MI, MS, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, and WI; and (2) *materials and supplies* used in the manufacture, processing, and distribution of the commodities in (1) above, in the reverse direction.

MC 14394 (Sub-16F), filed November 21, 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). 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., under continuing contract(s) with Acme Fast Freight, Inc., of New York, NY.

MC 143924 (Sub-4F), filed November 19, 1980. Applicant: FUGATE TRUCKING, INC., P.O. Box 14, Danville, VA 24541. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting (1) *glass containers, container ends, and tubing* and (2) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1), between points in AL, DE, FL, GA, MD, NJ, NC, PA, SC, TN, VA and WV.

MC 144344 (Sub-5F), filed November 18, 1980. Applicant: DE ANZA DELIVERY SYSTEM, INC., P.O. Box 1848, Fremont, CA 94538. Representative: James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in CA.

MC 145904 (Sub-34F), filed November 21, 1980. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in Cook, DuPage, Kane, Lake, and Will Counties, IL, and Lake County, IN, on the one hand, and, on the other, points in IA.

MC 147804 (Sub-2F), filed November 21, 1980. Applicant: R. E. HUSMAN EXPRESS, INC., 3927 Hemphill Way, Cincinnati, OH 45236. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting (1) *mattresses, box springs, convertible sofa beds, upholstered furniture, batting, padding, frames, springs and molds, cloth, cotton*

and synthetic fiber, filter media, cellulose sponges, and brushes, and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above (except in bulk) between points in Hamilton, Warren, Preble, and Columbiana Counties, OH, Laurel County, KY, Middlesex County, NJ, and Pontotoc County, MS, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 151434 (Sub-1F), filed November 21, 1980. Applicant: AERO WAREHOUSE CORPORATION, Fox Hill Industrial Park, Mountain Lakes, NJ 07046. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting (1) *electronic machines,* and *components* of electronic machines, and (2) *materials and supplies* used in the manufacture and sale of the commodities (1) above, (except in bulk), between points in the U.S., under continuing contract(s) with Burroughs Corporation, of Livonia, MI.

MC 151965 (Sub-1F), filed November 20, 1980. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602 Transporting *lumber* and *lumber mill products,* between points in the U.S., under continuing contract(s) with Midwest Lumber Associates, of Sun Prairie, WI.

MC 151975 (Sub-3F), filed November 16, 1980. Applicant: DIRECT DELIVERY, INC., 1239 Willingham Drive, East Point, GA 30344. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30327. Transporting *lighting fixtures* and (2) *materials, supplies and equipment* used in the manufacture, sale and distribution of lighting fixtures, between Norcross, GA, on the one hand, and, on the other, points in the AL, FL, LA, NC, NJ, MS, SC, TN, and VA.

MC 151995 (Sub-1F), filed November 21, 1980. Applicant: CHARLES POCH, INC., Route 1, St. Cloud, WI 53079. Representative: James A Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *sweetened condensed milk,* between points in the U.S., under continuing contract(s) with Gehl's Guernsey Farms, Inc., of Germantown, WI.

MC 152825F, filed November 19, 1980. Applicant: HO-RO TRUCKING CO., INC., P.O. Box 487, Woodbridge, NJ 07095. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except articles of unusual value, 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 of United States Gypsum Company.

MC 152844F, filed November 20, 1980. Applicant: TRANS FLEET ENTERPRISES, INC., P.O. Box 1698, Columbia, MD 65201. Representative: Owen B. Katzman, 1828 L St., N.W., Suite 1111, Washington, DC 200036. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under a continuing contract(s) with Federated Department Stores, Inc., of Cincinnati, OH.

MC 152845F, filed November 18, 1980. Applicant: SUNNYLAND FOODS, INC., Albany Rd., Thomasville, GA 31792. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with H. J. Powell Company, Inc., Red Barn Milling Company, Division of Winn Sales Company, Inc., and Georgia Chemical Company, Inc., all of Thomasville, GA.

FF–534, filed November 4, 1980. Applicant: FREIGHT FORWARDER, INC., P.O. Box 59088TA, Denver, CO 80217. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80205. To operate as a freight forwarder, in interstate commerce, transporting *general commodities,* between points in the U.S. (except AK and HI).

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Decided: Dec. 4, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 30204 (Sub-43F) filed November 24, 1980. Applicant: HEMINGWAY TRANSPORT, INC., 438 Dartmouth Street, New Bedford, MA 02742. Representative: Thomas N. Willess, 1000 Sixteenth Street, NW, Suite 502, Solar Building, Washington, DC 20036. Transporting *foodstuffs,* between the facilities of Curtis-Burns, Inc., in New York, on the one hand, and, on the other, points in FL, GA, NC, and SC.

MC 30374 (Sub-34F) filed November 25, 1980. Applicant: TRI-STATE TRANSPORTATION CO., INC., P.O. Box 488, Bellmawr, NJ 08031. Representative: A. David Millner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting (1) *wearing apparel,* on hangers and in cartons, (2) *materials, equipment, and supplies* used in the manufacture of wearing apparel, and (3) *such commodities* as are dealt in or used by department stores, moving in mixed loads with (1) or (2) above, (except commodities in (1) and (2) above), between the points in MD, DE, NY, NJ, DC, and those in PA on and east of U.S. Hwy 15.

MC 52704 (Sub-290F) filed November 24, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *cleaning compounds, buffing compounds, polishing compounds, solvents, starch, bleach, lubricants, carbon, gum, sizing, gum and sludge removing compounds, plastic sprayers, parts* for plastic sprayers, *janitorial supplies, janitorial equipment, insecticides,* and *pesticides,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 53965 (Sub-181F), filed November 24, 1980. Applicant: GRAVES TRUCK LINE, INC., P.O. Box 838, Salina, KS 67401. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Transporting (1) *Fibrous Glass products, and materials, insulating products* and (2) *Materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1), between McPherson, KS, on the one hand, and, on the other, points in TX.

MC 70015 (Sub-7f), filed November 25, 1980. Applicant: ALEXANDER B. POLLOCK, d.b.a. JIFFY VANS, 6575 E. Pleasant Run Pkwy., Indianapolis, IN 46219. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *household goods* as defined by the Commission, between points in IN, IL, OH, MI, MO, KY, TN, NY, WV, PA, NJ, DE, WI, MD, VA, and DC.

MC 104654 (Sub-166F), filed November 18, 1980. Applicant: COMMERCIAL TRANSPORT, INC., P.O. Box 469, Belleville, IL 62222. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave., & 13th St. NW., Washington, DC 20004. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 106674 (Sub-512F), filed November 25, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *building woodwork* and *Materials, equipment and supplies* used in the manufacture of building woodwork, between Oshkosh, WI, on the one hand, and, on the other, points in the U.S. in and east of MT, WY, CO, and NM.

MC 106674 (Sub-513F), filed November 25, 1980. Applicant: SHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *rubber articles* and plastic articles, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Irving, TX, on the one hand, and, on the other, points in the U.S.

MC 107515 (Sub-1396F), filed November 24, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd. NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *foodstuffs* (except commodities in bulk), from Memphis, TN, to points in the US (except AK and HI).

MC 116544 (Sub-233F), filed November 24, 1980. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *such commodities* as are dealt in or used by manufacturers of dairy farm equipment, milking machines, industrial tanks and cleaning equipment, and peening machines, between points in Franklin County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119654 (Sub-93F), filed November 24, 1980. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th St., P.O. Box 509, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in IN, IL, KY, OH, MI, WI, AR, DE, IA, KS, MD, MN, MO, NJ, NY, NC, ND, PA, SC, TN, and DC.

Note: Applicant relies on traffic studies and economic efficiencies in lieu of supporting shipper statements.

MC 123255 (Sub-227F), filed November 24, 1980. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Rd., Newark, OH 43055. Representative: C. F. Schnee, Jr., 1984 Coffman Rd., Newark, OH 43055. Transporting (1) *air filters* and (2) *material, equipment and supplies* used in the manufacture and distribution of air filters, between the facilities of the Columbus Industries, Inc., at or near Ashville, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 123744 (Sub-93F), filed November 25, 1980. Applicant: BUTLER TRUCKING COMPANY, a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. Transporting (1) *building materials* and *construction materials*, and (2) *materials, equipment and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 129124 (Sub-32F), filed November 24, 1980. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA. 17108 Transporting *coal*, from points in Northumberland County, PA, to points in NJ.

MC 140665 (Sub-118F), filed November 24, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting (1) *foodstuffs* (except in bulk), and (2) *materials and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), between points in the U.S. (except AK and HI).

MC 140665 (Sub-119F), filed November 24, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, those requiring special equipment, and commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of the General Tire & Rubber Company.

MC 142145 (Sub-9F), filed November 25, 1980. Applicant: LINDSAY TRANSPORTATION, INC., P.O. Box 97, Lindsay, NE 68644. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Transporting *such commodities* as are dealt in or used by distributors of building materials, between points in the U.S., under continuing contract(s) with Roberts & Dybdahl Inc., of Des Moines, IA.

MC 142664 (Sub-8F), filed November 27, 1980. Applicant: IMPORT DEALERS SERVICE CORPORATION, 2222 East Sepulveda Boulevard, Long Beach, CA 90810. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting *motor vehicles* (except trailers), between El Paso, TX, and points in CA, NV, UT, CO, NM, and AZ.

MC 142844 (Sub-20F), filed November 24, 1980. Applicant: PRAIRIE WEST TRUCKING, INC., P.O. Box 2576, Bismarck, ND 58502. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND. 58502. Transporting *lumber, lumber products, wood products, and forest products*, between points in the U.S., under continuing contract(s) with Sprenger Midwest, Inc., of Minnetonka, MN.

MC 143394 (Sub-17F), filed November 24, 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). 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 Duffy-Mott Co., Inc., New York, NY.

MC 143775 (Sub-161F), filed November 18, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *paper and paper articles*, (2) *wood pulp*, (3) *plastic and plastic products* (except commodities in bulk), and (4) *materials and supplies* used in the manufacture and distribution of the commodities in (1), (2), and (3) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Georgia Pacific Corporation.

MC 144505 (Sub-4F), filed November 16, 1980. Applicant: DOYLE LOVE, d.b.a. LOVE TRUCKING, Route 1, Box 438, Maybank, TX 75147. Representative: Thomas L. Cook, First Continental Bank Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. Transporting *motorcycles*, between points in LA, OK, TX, KS, and NE.

MC 146314 (Sub-4F), filed November 24, 1980. Applicant: G & T TRUCKING CO., a corporation, County Road 2 and I–35, Elko, MN 55020. Representative: Thomas Zwiers (same address as applicant). Transporting *construction equipmnent*, between points in CO, LA, MI, MN, NY, OR, TX, WA, and WY.

MC146814 (Sub-10F), filed November 18,1980. Applicant: VAN WYK, INC., C. St., Box 433, Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in CA, CO, CT, IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, NJ, NY, OH, PA, SD, TX, and WI. Condition: Issuance of this certificate is subject to prior or coincidental cancellation, at applicant's written request of duplicating certificate issued under Docket MC 146814.

Note:—Applicant relies upon traffic studies alone without shipper support.

MC146985 (Sub-7F), filed November 12, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46514. Representative: Phillip A. Renz, Suite 200, Metro Bldg., Fort Wayne, IN 46802. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under a continuing contract(s) with Dometic Sales Corporation, of Elkhart, IN.

MC148314 (Sub-4F), filed October 17, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. Transporting *plastic film* and *materials, equipment and supplies* used in the manufacture and distribution of plastic film, between points in Summit and Cuyahoga Counties, OH, on the one hand, and, on the other, points in Cook County, IL and Lake County, IN.

MC150044 (Sub-1F), filed November 24, 1980. Applicant: R. ERDMANN TRUCKING, INC., Hwy. 101W., P.O. Box 564, Port Angeles, WA 98362. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. Transporting *building materials*, between points in Clallam and Jefferson Counties, WA, on the one hand, and, on the other, those in OR and WA on and west of U.S. Hwy 97.

MC151455 (Sub-1F), filed November 25, 1980. Applicant: T & T TRUCKING, INC., 351 Attucks St., St. Louis, MO 63122. Representative: Charles L. Thornton (same address as applicant). Transporting *envelopes*, between points in the U.S., under continuing contract(s) with Champion Envelope Midwest Corp., of Vinita Park, MO.

MC 151484 (Sub-1F), filed November 24, 1980. Applicant: KATHRYN L. LEITH, INC., P.O. Box 132, Coopersburg, PA 18036. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *zinc ore concentrates*, in dump vehicles, from Upper Saucon Township, PA, to Philadelphia, PA.

MC 151534 (Sub-4F), filed November 17, 1980. Applicant: R&D TRANSPORTATION CORPORATION, 818 5th Ave., P.O. Box 1908, Des Moines, IA 50306. Representative: Craig D. Vermie, 1350 Financial Center, Des Moines, IA 50309. Transporting (1) *railroad car parts*, and (2) *iron, steel, and aluminum*, used in the manufacture of railroad car parts, between Omaha, NE, on the one hand, and, on the other, points in AR, LA, MS, MO, KS, CO, SD, ND, NE, MN, IA, IL, MT, ID, OR, WA, WY, UT, and CA.

MC 152914F, filed November 25, 1980. Applicant: STATEWAY TRUCKING, INC., Suite 600, 612 No. Michigan Ave., Chicago, IL 60611. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave. NW., Washington, DC 20036. Transporting *such commodities* as are dealt in or used by manufacturers, distributors, and retailers of foodstuffs, between points in Lake, Du Page, and Cooke Counties, IL, Lake County, IN, Polk and Chickasaw Counties, IA, Hamilton County, TN, Dallas County, TX, Onondaga County, NY, Orange County, CA, and Cobb, De Kalb, Fulton, and Clayton Counties, GA, on the one hand, and, on the other, points in the U.S.

Volume No. OP3–105

Decided: December 4, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 9644 (Sub-8F), filed November 25, 1980. Applicant: HAYES TRUCK LINE, INC., 1410 Intercity Trafficway, P.O. Box 4060, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Over regular routes, transporting *general commodities*, (1) Between Junction City and Concordia, KS: From Junction City over U.S. Hwy 40 to Salina, then over Interstate U.S. Hwy 135 to junction U.S. Hwy 81, then over U.S. Hwy 81 to Concordia, and return over the same route, serving Beloit, KS as an off-route point; and (2) Between Kansas City, MO and Junction City, KS, over (a) U.S. Hwy 40, and (b) Interstate Hwy 70, in (1) and (2) above serving all intermediate points.

Note.—To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance.

MC 116014 (Sub-89F), filed September 9, 1980, previously noticed in **Federal Register** on October 3, 1980. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, KY 40391. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of furniture, bedding products and component parts of furniture and bedding products, between those points in the U.S. in and east of TX, OK, KS, NE, IA, and MN.

Note.—This republication corrects the commodity description.

MC 119934 (Sub-235F), filed November 25, 1980. Applicant: ECOFF TRUCKING, INC., R.R. No. 10, Box 100A, Greenfield, IN 46140. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Transporting *commodities in bulk (1) between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (2) between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, points in the U.S.*

MC 123255 (Sub-226F), filed November 24, 1980. Applicant: B & L MOTOR FREIGHT, 1984 Coffman Rd., Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC.

Note.—Applicant relies upon past operations under fragmented authority rather than upon shipper support.

MC 124004 (Sub-63F), filed November 25, 1980. Applicant: RICHARD DAHN, INC., 620 West Mountain Road., Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. 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 the facilities used by Union Camp Corporation, of Wayne, NJ.

MC 135895 (Sub-119F), filed November 25, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *air filters, air filter media and insulating materials*, in containers, and (2) *materials, equipment and supplies* used in the manufacture, sale, installation,

and distribution of commodities in (1) above (except commodities in bulk and those requiring special equipment), between those points in the U.S. in and east of ND, SD, NE, CO, and NM, restricted to traffic originating at or destined to the facilities of Precisionaire, Inc.

MC 135895 (Sub-120F), filed November 25, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *bicycles, bicycle parts and accessories and* (2) *equipment, materials and supplies* used in the manufacture, sale and distribution of commodities in (1) above (except 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 the facilities of Huffy Corporation.

MC 136315 (Sub-138F), filed November 25, 1980. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting *primary metal products,* and *equipment and supplies* used in the manufacture and distribution of metal products, between points in Whiteside County, IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, KS, OK, and TX.

MC 139464 (Sub-3F), filed November 24, 1980. Applicant: BASS TRANSPORT, INC., Route 2, Box 64A, Altavista, VA 24517. Representative: Frank B. Hand, Jr., 521 S. Cameron Street, Winchester, VA 22601. Transporting *new furniture and fixtures,* from points in Campbell and Franklin Counties, VA, to points in CT, IL, IN, ME, MA, MI, NH, RI, VT, and WI.

MC 140645 (Sub-19F), filed November 24, 1980. Applicant: UNITED TRUCKING, INC., P.O. Box 398, Tallapoosa, GA 30716. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *metal containers* and *metal container ends,* and *materials, equipment and supplies* used in the manufacture and distribution of metal containers, (a) between points in Harlson County, GA, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, IL, IN, IA, KS, KY, LA, MD, MS, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, WI, AZ, CA, CO, ID, ME, MT, NV, NM, NH, ND, OR, RI, SC, UT, VT, WA, WY, and DC, (b) between points in Montgomery County, PA, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MS, MN, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WY, and and DC, and (c) between points in Buncombe County, NC, on the one hand, and, on the other, points in AL, FL, GA, IN, IL, LA, MI, MD, MS, NJ, NY, OH, PA, SC, VA, and WV, restricted in (1) above to traffic originating at or destined to the facilities of Southern Can Company; (2) *cleaning, buffing, and polishing compounds, textile softeners, lubricating oil, deodorants,* and *disinfectants* (except commodities in bulk), (a) from points in Will County, IL, to points in AL, GA, and TN, (b) between points in Cape May County, NJ, on the one hand, and, on the other, points in IL, IN, MI, NY, OH, and PA, and (c) between points in Cook County, IL, on the one hand, and, on the other, points in AL, GA, and TN, restricted to traffic in (2) above to traffic originating at or destined to Economics Laboratory, Inc.; (3) *liquid commodities,* in containers; and *metal and plastic containers, and metal and plastic container spray valves and covers,* between points in Fulton County, GA, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MS, MN, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, restricted in (3) above to traffic originating at or destined to the facilities of Southeast Packaging Corporation; (4) *such commodities* as are dealt in by grocery houses, retail chain department stores and drug stores, between points in Clark County, IN, Fulton County, GA and Duval County, FL; (5) (a) *buffing, polishing, cleaning, scouring, and washing compounds, solvents, starch, bleach, lubricating oils, carbon gum and sludge removing compounds, disinfectants, softeners, and sizings, janitorial supplies and equipment, insecticides* and *pesticides* (except in bulk), and (b) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (5) (a) above (except in bulk), between points in Fulton County, GA, Kankakee and Vermilion Counties, IL, Middlesex County, NJ, Butte County, CA, Providence County, RI, Shelby County, TN, and Spartanburg County, SC, on the one hand, and, on the other, points in the U.S., restricted in (5) above to traffic originating at or destined to the facilities of Texize Division of Morton-Norwich; and (6) *bakery goods,* between points in the U.S., restricted in (6) above to traffic originating at or destined to the facilities of Keebler Company. Condition: Issuance of a certificate is subject to prior or coincidental cancellation, at applicant's written request, of Permit MC 140645 (Subs-3, 5, 6, 11, 12, 15, 16, 17, and 18).

MC 141124 (Sub-57F), filed November 25, 1980. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 W. 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 the U.S.

MC 141805 (Sub-2F), filed November 25, 1980. Applicant: HOOSIER TRANSPORT, INC., R.R. #1, Box 294, Mt. Vernon, IN 47620. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *general commodities* (except classes A and B explosives), between points in Posey County, IN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 144115 (Sub-4F), filed November 25, 1980. Applicant: DIVERSIFIED CARRIERS, INC., 903 Sixth Street, N.W., Rochester, MN 55901. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *steel siding* and (2) *materials, supplies and equipment* used in the manufacture and installation of steel siding, between points in Milwaukee County, WI on the one hand, and, on the other, points in the U.S.

MC 147644 (Sub-7F), filed November 21, 1980. Applicant: J.M.C. TRANSPORT, INC., 1719 Potters Lane, Jeffersonville, IN 47130. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting (1) *such commodities* as are dealt in or used by producers and distributors of alcoholic beverages, between Atlanta and Columbus, GA, Las Vegas, NV, Cincinnati, OH, and Columbia, SC, and points in KY and IN, on the one hand, and, on the other, points in the U.S.; and (2) *sugar,* in packages, between Gramercy, LA, on the one hand, and, on the other, Evansville and Indianapolis, IN, Louisville, KY and Cincinnati, OH.

MC 148184 (Sub-5F), filed November 25, 1980. Applicant: SUMMIT TRUCK LINES, INC., 743 Appleway, Coeur d'Alene, ID 83814. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. Transporting (1) *printed matter,* and (2) *equipment, materials and supplies* used in the printing and publishing business, between points in OH, on the one hand, and, on the other, those points in the U.S. in and west of WI, IL, MO, AR and LA (except AK and HI).

MC 148764 (Sub-3F), filed November 25, 1980. Applicant: BUFFALO FUEL CORP., 2445 Allen Ave., Niagara Falls, NY 14303. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202. Transporting *scrap metal, coke, pig iron,* and *materials and supplies* used in the manufacture of pig iron, between points in CT, MD, MA, MI, MN, NJ, NY, OH, PA, RI, VT, VA, and WV.

MC 149155 (Sub-7F), filed November 25, 1980. Applicant: JOHN PEPPER d.b.a. MIDWEST CARTAGE COMPANY, P.O. Box 318, Atchison, KS 66002. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *food or kindred products,* as described in item 20 of the Standard Transportation Commodity Code, from points in Atchison County, KS, to points in the U.S.

MC 151644 (Sub-1F), filed November 24, 1980. Applicant: WILDCAT TRUCKING COMPANY, a corporation, 6810 Dollarway Road, Pine Bluff, AR 71602. Representative: M. Douglas Wood, 2500 McCain Blvd., Suite 103, North Little Rock, AR 72116. Transporting *steel tubing and iron tubing, and metal products* between points in Jefferson County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 15200 (Sub-1F), filed November 25, 1980. Applicant: TRANSCONTINENTAL FREIGHT SYSTEMS, INC., 2559 South Archer Avenue, Chicago, IL 60608, Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Transporting *general commodities* (except those of unusual value household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in the U.S., under a continuing contract(s) with International Nu-Way Shippers, Inc., of Chicago, IL.

MC 152685 (Sub-1F), filed November 25, 1980. Applicant: RON NOBACH TRUCKING, INC., 7404 44th Ave. N.E., Marysville, WA 98270. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. Transporting *cheese* and *cheese products,* from Mt. Vernon, WA, to Logan, UT, and points in CA.

MC 152894F, filed November 25, 1980. Applicant: SUMMIT GROUP TRAVEL, INC., 917 Western Savings Bank Bldg., Broad and Chestnut St., Philadelphia, PA 19107. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107. Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in PA, NJ, MD, DE, VA, and DC, and extending to points in the U.S. (except HI).

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Decided: Dec. 3, 1980.

By the Commission Review Board Number 3, Members Parker, Fortier and Hill.

MC 147034 (Sub-3F), filed September 29, 1980, previously published in FR of October 21, 1980. Applicant: ALBANESE TRANSPORT, INC., 3537 Apulia Road, Jamesville, NY 13078. Representative: Donald G. Hichman, R.D. #1, Box 7, Union Springs, NY 13160. Transporting (1) *chemicals* (except in bulk), from points in Onondaga County, NY, to points in AL, AR, CA, CT, FL, GA, IL, IN, LA, MA, MD, MO, MS, NC, RI, SC, TN, NJ, NY, PA, TX and VA; and (2) *materials and supplies* used in the manufacture and distribution of chemicals (except commodities in bulk), in the reverse direction. Note: This republication corrects the territorial description.

Volume No. OP4–155

Decided: Dec. 9, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 5227 (Sub-76F), filed November 26, 1980. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. Transporting *lumber and lumber mill products,* from Philadelphia, PA, points in Cleveland and Drew Counties, AR, Fulton County, GA, Pottawattmie County, IA, Tazewell and Peoria Counties, IL, Marion County, IN, Wyandotte and Johnson Counties, KS, Dickinson and Kent Counties, MI, Madison, Hinds, and Yazoo Counties, MS, Douglas County, NE, Franklin County, OH, St. Croix and Taylor Counties, WI, and points in TN, to points in WA, OR, ID, MT, UT, CO, AZ, and NV.

MC 31307 (Sub-3F), filed November 11, 1980. Applicant: COLUMBIA RIVER TRUCK CO., INC., P..O. Box 1001, Camas, WA 98607. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between Home Valley, WA and Bingen, WA, over WA Hwy 14, serving all intermediate points and serving White Salmon and Lyle, WA, those points in Klickitat County, WA west of the Klickitat River, and points in Skamania County, WA as off-route points.

MC 42146 (Sub-30F), filed November 18, 1980. Applicant: A. G. Boone Company, a corporation, 1812 W. Morehead St., Charlotte, NC 28266. Representative: Floyd C. Hartsell, P.O. Box 66812, 1812 W. Morehead St., Charlotte, NC 28266.Transporting *general commodities* (except class A and B explosives and household goods as defined by the commission), between points in the U.S., under continuing contract(s) with the Great Atlantic & Pacific Tea Company, Inc., Compass Foods, Inc., Family Center, Inc., Plus Discount Foods, Inc., and Super Market Service, Inc., all of Montvale, NJ.

MC 46737 (Sub-58F), filed November 26, 1980. Applicant: GEO. F. ALGER COMPANY, a corporation, 26380 Van Born Rd., Dearborn Heights, MI 48125. Representative: Delmar A. Broyles (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of motor vehicles, between points in MI, OH, PA, IN, IL, WI, MO, KY, and NY.

MC 109397 (Sub-533F), filed November 28, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Transporting (1) *building materials,* and (2) *equipment and supplies* used in the manufacture and distribution of building materials, between points in Ellis County, TX and Harrison County, MS, on the one hand, and, on the other, points in the U.S.

MC 118696 (Sub-46F), filed November 25, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Rd., Hammond, IN 46324. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46324. Transporting (1) *new furniture,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of new furniture, between points in Orange and Dubois Counties, IN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 119226 (Sub-125F), filed November 16, 1980. Applicant: LIQUID TRANSPORT CORP., R.R. No. 10, Box 100B, Greenfield, IN 46140. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., 320 N. Meridan St., Indianapolis, IN 46204. Transporting *the commodities* in bulk, (1) between thoe points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (2) between the points named in (1) above, on the one hand, and on the

other, those points in the U.S. in and west of MT, WY, CO, and NM.

MC 123987 (Sub-39F), filed November 25, 1980. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Magnum, OK 73554. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting (1) *forest products, and lumber and wood products* (except furniture), (2) *building materials* (except commodities in bulk), (3) *iron and steel articles*, (4) *paper and paper products, and* (5) *chemicals* (except commodities in bulk) and (6) *pipes*, between points in CA, NV, ID, WY, ND, SD, UT, IA, MO, AR, LA, NE, KS, OK, TX, CO, NM, MT, OR, WA, IL, and TN.

MC 129387 (Sub-118F), filed November 25, 1980. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron SD 57350. Representative: Charles E. Dye, P.O. Box 971, West Bend, WI 53095. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from Moses Lake and Othello, WA, Nampa, ID, Elwood, KS, and Kansas City, MO, to points in IL, MO, KS, IA, ND, SD, MT, WY, ID, WA, and KY.

MC 133296 (Sub-13F), filed November 25, 1980. Applicant: YULE TRANSPORT, INC., P.O. Box 56, Medford, MN 55049. Representative: Val M. Higgins, 1600 TCF Tower, 121 South Eighth, Minneapolis, MN 55402. Transporting *general commodities* (except class A and B explosives), and household goods as defined by the Commission, between points in the U.S., under continuing contract(s) with Owatonna Canning Co., and Tendersweet Sales Corp., both of Owatonna, MN, and Olivia Canning Co., of Olivia, MN.

MC 133566 (Sub-171F), filed November 25, 1980. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting (1) *foodstuffs* (except commodities in bulk), and (2) *meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I of the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), and (3) *materials, equipment and supplies* used in the manufacture and distribution of commodities named in (1) and (2) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with Swift Independent Packing Company of Chicago, IL.

MC 134806 (Sub-70F), filed November 25, 1980. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277 Vernon Dr., Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Washington, D.C. 20014. Transporting (1) *materials* used in the manufacture of boots and shoes, under continuing contract(s) with The Goodyear Tire & Rubber Company, of Akron, OH, (2) *lumber and wood products*, under continuing contract(s) with Cersosimo Lumber Co., Inc., of Brattleboro, VT, and (3) *cast iron woodburning stoves*, under continuing contract(s) with Vermont Castings, Inc., of Randolph, VT, between points in the U.S. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage, i.e., either by (1) furnishing transportation service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person serviced, or (2) furnishing transportation services designed to meet the distinct need of each individual customer, and if the latter, applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 134547 (Sub-9F), filed November 25, 1980. Applicant: BILBO TRANSPORTS, INC., 2722 Singleton Blvd., Dallas, TX 75212. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting (1) *building materials*, (except commodities in bulk), and (2) *equipment and supplies* used in the manufacture and distribution of building materials, (except commodities in bulk) between points in the U.S. under continuing contract(s) with Masonite Corporation, of Grand Prairie, TX, GAF Corporation, of Wayne, NJ, and Three Rivers Gypsum, Inc., of Dallas, TX.

MC 138917 (Sub-1F), filed November 25, 1980. Applicant: A & R TRANSPORT, INC., 1762 Chip Rd., Kawakawlin, MI 48631. Representative: Benjamin H. Ruegsegger, R. No. 1, Kawkawlin, MI 48631. Transporting (1) *malt beverages*, and (2) *materials and supplies* used in the distribution of malt beverages, (a) from the facilities of the Pabst Brewing Company at Peoria, IL, to points in IN, and those in the Lower Peninsula, of MI and (b) from the facilities of Miller Brewing Company, at (i) Trenton, OH, and (iii) Fulton, NY to points in the Lower Penninsuls of MI.

MC 139977 (Sub-1F), filed November 25, 1980. Applicant: GEORGE J. SUMMERS, 23 Church St., Upton, MA 01568. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. Transporting (1) *liquid petroleum products*, in bulk, in tank vehicles, and (2) *waste or scrap materials*, in bulk, in dump vehicles, between points in Tolland and Windham Counties, CT, and points in MA and RI.

MC 140827 (Sub-17F), filed November 26, 1980. Applicant: MARKET TRANSPORT, LTD., 110 North Marine Dr., Portland, OR 97217. Representative: Richard H. Streeter, 1729 H St., NW., Washington, DC 20006. Transporting (1) *such commodities* as are dealt in by grocery, food, and drug business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in WA, OR, CA, ID, NV, AZ, UT, and CO.

MC 143776 (Sub-11F), filed November 26, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *printed matter*, and *materials, equipment, and supplies* used in the manufacture and distribution of printed matter, between points in Murray County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143776 (Sub-12F), filed November 26, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Norman A Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *textile mill products*, and *materials, equipment, and supplies* used in the manufacture and distribution of textile mill products, between points in Gordon, Murray, and Whitfield Counties, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145067 (Sub-6F), filed November 25, 1980. Applicant: LAWRENCE E. SPAIDE, INC., P.O. Box 111, Avoca, PA 18640. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting (1) *paint and paint products* (except for commodities in bulk), points in Montgomery and Philadelphia Counties, PA, and Baltimore County, MD, to points in CA, AR, TX, LA, and OK, and (2)(a) fabricated metal products, and (b) materials, equipment, and supplies used in the manufacture and distribution of fabricated metal products, between points in Lackawanna County, PA on the one hand, and, on the other, points in the U.S.

MC 145076 (Sub-3F), filed November 21, 1980. Applicant: JOHN MANS, INC.,

R.R. No. 2, Haubstadt, IN 47639. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204.Transporting *construction, excavating and mining equipment and supplies,* (1) between Allen, Middlesboro, Lexington, Louisville and Paducah, KY, Evansville, IN, and St. Louis, Columbia and Cape Girardeau, MO, and (2) between the points named in (1) above, on the one hand, and, on the other, points in IN, IL, and KY.

MC 145337 (Sub-11F), filed November 21, 1980. Applicant: P.M.E., LTD, 1557 Brookside Blvd., Winnipeg, Manitoba, Canada R2R IV6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. In foreign commerce only, transporting *fiberglass products,* between points in Pinal County, AZ, and Alameda and Orange Counties, CA, on the one hand, and, on the other, those ports of entry on the U.S.-Canada international boundary line in MN and ND.

MC 146646 (Sub-132F), filed November 26, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *industrial steelcase batteries,* from Detroit, MI, Chicago, IL, Indianapolis, IN, Minneapolis, MN, St. Louis, MO, Cincinnati and Cleveland, OH, to Dallas, TX.

MC 147196 (Sub-11F), filed November 25, 1980. Applicant: ECONOMY TRANSPORT, INC., 1205 St. Louis St., New Orleans, LA 70150. Representative: Donald A. Larousse (same address as applicant). Transporting *sugar* (except in bulk), between points in the U.S., under continuing contract(s) with Godchaux Sugar Company, Inc., of Reserve, LA.

MC 148016 (Sub-8F), filed November 24, 1980. Applicant: McWHORTER-GRAY ENTERPRISES, INC., 1010 Highway 15 North, Ripley, MS 38663. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205.Transporting (1) *chemicals,* and (2) *clay products,* between points in the U.S., under a continuing contract(s) with International Minerals & Chemical Corporation, of Mundelien, IL.

MC 148227 (Sub-3F), filed November 25, 1980. Applicant: D–T INCORPORATED, 1002 South Koenigheim St., San Angelo, TX 76903. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701. Transporting *motorcycles,* between points in LA, NM, and TX.

MC 150477 (Sub-1F), filed November 25, 1980. Applicant: CLIFTON HALL, d.b.a. CLIFTON HALL TRUCK LINE, Rt. 5, box 61A, DeFuniak Springs, FL 32433. Representative: Clifton Hall (same address as applicant). Transporting *fertilizer and fertilizer ingredients,* between points in the U.S., under continuing contract(s) with Estech General Chemicals Corporation, of Atlanta, GA.

MC 150567 (Sub-17F), filed November 26, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Drv., Suite 515, San Antonio, TX 78217. Transporting (1) *lumber and wood products,* (2) *building materials,* (3) *paper and paper products,* (4) *packaging materials,* and (5) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) through (4) above, between points in the U.S., under continuing contract(s) with St. Regis Paper Company, of Tacoma, WA.

MC 151726 (Sub-1F), filed November 25, 1980. Applicant: SHEYENNE VALLEY LUMBER CO., a corporation, P.O. Box 276, Leonard, ND 58052. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting *construction materials,* between points in the U.S., under continuing contract(s) with Lavelle Lumber Co., of Fargo, ND.

MC 151246 (Sub-1F), filed November 25, 1980. Applicant: JOHN DOTSETH TRUCKING, INC., Route 6, Menomonie, WI. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in St. Croix, Dunn, Barron, Chippewa, and Eau Claire Counties, WI, on the one hand, and, on the other, Minneapolis, MN.

MC 152836F, filed November 20, 1980. Applicant: OHIO VALLEY TRAVEL SERVICE, INC., 1145 Main St., Wheeling, WV 26003. Representative: William J. Inhlenfeld, 411 Board of Trade Bldg., Wheeling, WV 26003. To operate as a *broker* at Wheeling, WV, in interstate or foreign commerce, to arrange for the transportation, by motor vehicle, of *passengers and their baggage,* between points in Ohio and Marshall Counties, WV, on the one hand, and, on the other, points in the U.S. (including AK and HI).

MC 152846F, filed November 14, 1980. Applicant: LEBONTE TRANSPORT, INC., 4331 Royal Palm Beach Blvd., Royal Palm Beach, FL 33411. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *automobiles,* between points in the U.S., under continuing contract(s) with Zimmer Motor Car Corporation, of Pompano Beach, FL.

MC 152777 (Sub-1F) filed November 25, 1980. Applicant: JAMES C. MALIN, d.b.a. MALIN TRUCKING, P.O. Box 333, Lithonia, GA 30058. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *liquid asphalt,* from points in Hamilton County, TN and Tuscaloosa County, AL and points in FL, to points in GA.

MC 152887F, filed November 25, 1980. Applicant: SPEEDS AUTOMOTIVE, INC., 120 SE. Clay, Portland, OR 97214. Representative: Gary R. Coe, 11115 SW. 135th, Portland, OR 97223. Transporting *wrecked, disabled, repossessed, or stolen vehicles,* between points in OR, ID, CA, NV, and WA.

MC 152916F, filed November 26, 1980. Applicant: BARTON PUMPING & SEWER SERVICE, INC., 1029 Forest Parkway, P.O. Box 1403, Forest Park, GA 30050. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *waste materials, recyclable solvents, and contaminated petroleum products,* between points in GA, on the one hand, and, on the other, points in AL, FL, NC, SC, and TN.

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Decided: December 9, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC30446 (Sub-17F), filed November 17, 1980. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., P.O. Box 5647, Charlotte, NC 28225. Representative: Charles Ephraim, Suite 406, 918 16th St., N.W., Washington, DC 20006. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between the GA–TN State line and the FL–GA State line, over Interstate Hwy 75, (2) between AL–GA State line and Florence, SC, over Interstate Hwy 20, (3) between the AL–GA State line and Henderson, NC, over Interstate Hwy 85, (4) between GA–AL State line and Macon, GA, over Interstate Hwy 80, (5) between the AL–GA State line and Wilmington, NC, from the AL–GA State line over U.S. Hwy 82 to junction U.S. Hwy 17, then over U.S. Hwy 17 to Wilmington, and return over the same route, (6) between the AL–GA State line and Waycross, GA, over U.S. Hwy 84, (7) between Macon, GA and Savannah, GA over Interstate Hwy 16, (8) between Macon, GA and Jesup, GA, from Macon over U.S. Hwy 23 to Chauncey, GA, then over U.S. Hwy 341 to Jesup, and return over the same route, (9) between

Atlanta, GA and Clinton, SC, from Atlanta over U.S. Hwy 78 to Athens, GA, then over GA Hwy 72 to the GA–SC State line, then over SC Hwy 72 to Clinton, SC, and return over the same route, (10) between Atlanta, GA and Greenville, SC, from Atlanta over U.S. Hwy 23 to Baldwin, GA, then over U.S. Hwy 123 to Greenville, and return over the same route, (11) Between Augusta, GA and junction GA Hwy 17 and U.S. Hwy 301, from Augusta over U.S. Hwy 25 to Millen, GA, then over GA Hwy 17 to junction U.S. Hwy 301, (12) between Athens, GA and Waynesboro, GA, from Athens over U.S. Hwy 441 to Milledgeville, GA then over GA Hwy 24 to Waynesboro, and return over the same route, (13) between junction Interstate Hwy 16 and U.S. Hwy 25 and Roanoke Rapids, NC, from junction Interstate Hwy 16 and U.S. Hwy 25 over U.S. Hwy 25 to Statesboro, GA, then over U.S. Hwy 301 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Roanoke Rapids, and return over the same route, (14) serving in connection with routes (1) through (13) all intermediate and off-route points in GA, NC and SC.

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Decided: December 9, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC40326 (Sub-1F), filed November 25, 1980. Applicant: CINTI TRUCKING, INC., 2174 Seymour Ave., Cincinnati, OH 45212. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between Cincinnati, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC59247 (Sub-15F), filed November 25, 1980. Applicant: LINDEN MOTOR FREIGHT COMPANY, INC., 1300 Lower Rd., Linden, NJ 07036. Representative: William Biederman, 371 Seventh Ave., New York, NY 10001. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those because of size and weight require special equipment), between points in CT, MA, RI, NY, NJ, DE, PA, and MD.

MC95876 (Sub-370F), filed November 21, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. Transporting *such commodities as are dealt in, or used by agricultural and industrial equipment dealers and manufacturers* (except commodities in bulk), from the facilities of J I Case Company at or near Racine and Wausau, WI, Terre Haute, IN, Burlington and Bettendorf, IA, and Wichita, KS, to points in AR, IA, ID, KS, LA, MN, MO, MT, ND, NE, OK, OR, SD, TN, TX, WI and WY.

MC 111476 (Sub-4F), filed November 21, 1980. Applicant: WISNESKI FURNITURE DELIVERY, a corporation, P.O. Box 270, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *furniture, bedding, glass, accessories and bases and tops,* between Passaic, NJ on the one hand, and, on thge other, points in CT, DE, MD, MA, NY, PA, RI, and DC.

MC 111936 (Sub-20F), filed November 26, 1980. Applicant: MURROW'S TRANSFER, INC., P.O. Box 4095, High Point, NC 27363. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting *furniture parts,* between points in Cook County, IL, on the one hand, and, on the other, points in AL, FL, GA, NC, SC, and VA.

MC 129537 (Sub-50F), filed November 21, 1980. Applicant: REEVES TRANSPORTATION CO., Rt. 5, Dew's Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. Transporting (1) *food stuffs* and (2) *meat, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses,* as described in Sections A, B 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), between points in IA, KS, MO, OK, TX, NM, CO, and FL, on the one hand, and, on the other points in GA, SC, NC, AL, TN, KY, and MS.

MC 134567 (Sub-2F), filed November 25, 1980. Applicant: RAMON RINE, an individual, 611 N. Pearl St., Osceola, AR 72370. Representative: Kay L. Matthews, 401 Union Life Bldg., Little Rock, AR 72201. Transporting *oleomargarine,* between points in Mississippi County, AR, on the one hand, and, on the other, points in the U.S.

MC 146357 (Sub-4F), filed November 21, 1980. Applicant: PAISLEY TRUCKING, INC., P.O. Box 208, Durango, IA 52309. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting: *salt,* from the facilities of Domtar Industries, Inc., Sifto Salt Division, at Dubuque, IA to points in IL, MN, MO, and WI.

MC 152726 (Sub-1F), filed November 24, 1980. Applicant: CENTRAL VALLEY TRANSPORTATION, INC., P.O. Box 125, Howard, PA 16841. Representative: Andrew Lipman, 1776 F St., NW., Washington, DC 20006. Transporting *coal,* from points in Centre County and Clearfield, PA, to points in NY.

MC 152806 (Sub-1F), filed November 25, 1980. Applicant: SUR-WAY TRANSPORT, INC., 31414 Ecorse Rd., Romulus, MI 48174. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084. Transporting (1) *Plastics and plastic articles,* from the facilities of Thermofil, Inc., at or near Brighton and Ypsilanti, MI, to points in IN, IL, and OH, and (2) *materials, equipment and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction.

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Decided: December 9, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 5227 (Sub-75F), filed November 19, 1980. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. Transporting (1) *conveyors, pumps, scaffolding, iron and steel articles, aluminum articles, rubber articles, hydraulic components, engines, and containers, and 2, materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in Yankton County, SD, on the one hand, and, on the other, points in the U.S.

MC 27817 (Sub-173F), filed November 21, 1980. Applicant: H. C. GABLER, INC., R.D. #3 P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 No. Front St., Harrisburg, PA 17101. Transporting (1) *plastic articles,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in Frederick County, VA, New Castle County, DE, Spartanburg and Aiken Counties, SC, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 48937 (Sub-1F), filed November 25, 1980. Applicant: (JOHN) CLARK TRUCKING & RIGGING CO., a corporation, 7685 Fields Ertel Rd., Cincinnati, OH 45241. Representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, OH 45202. Transporting (1) *machinery,* except electrical as described in Item 35 of the Standard Transportation Commodity Code, and (2) *electrical machinery or equipment,*

or supplies as described in Item 36 of the Standard Transportation Commodity Code, between Cincinnati, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 63417 (Sub-299F), filed November 24, 1980. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Transporting (1) *containers and container parts,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from Los Angeles, CA, Kent, WA, and Phoenix, AZ, to those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 107006 (Sub-11F), filed November 28, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 45212. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in the U.S. (except AK and HI), restricted to traffic originating or destined to the facilities of The Drackett Products Company.

MC 107527 (Sub-64F), filed November 16, 1980. Applicant: POST TRANSPORTATION CO., a corporation, 1970 E. 213th St., Carson, CA 90810. Representative: John C. Allen (same address as applicant). Transporting *chemicals,* in bulk, between points in the U.S., under continuing contract(s) with Stauffer Chemical Co., of Westport, CT.

MC 112547 (Sub-5F), filed November 12, 1980. Applicant: J. T. GERKEN TRUCKING, INC., P.O. Box 1468, Lima, OH 45802. Representative: Boyd B. Ferris, 50 W. Broad St. Columbus, OH 43215. Transporting *general commodities* (except articles of unusual value, household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract)s) with the Standard Oil Company of Ohio, of Cleveland, OH, and its subsidiaries.

MC 121496 (Sub-48F), filed November 19, 1980. Applicant: CANGO CORPORATION, 2727 North Loop West, Houston, TX 77008. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *commodities,* in bulk, between points in TX, on the one hand, and, on the other, points in the U.S.

MC 125996 (Sub-95F), filed November 19, 1980. Applicant: GOLDEN TRANSPORTATION, INC., P.O. Box 26908, Salt Lake City, UT 84125. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. Transporting *food or kindred products* as defined in item 20 of the Standard Transportation Commodity Code Tariff, (1) between points in Buchanan County, MO, on the one hand, and, on the other, points in AZ, CA, ID, NV, OR, UT, and WA, and (2) between points in Steele County, MN, on the one hand, and, on the other, points in AZ, CA, CO, and UT.

MC 127366 (Sub-5F), filed November 18, 1980. Applicant: F. PAUL PURDY TRUCKING, INCORPORATED, Route #4, Box 289, Loudon, TN 37774. Representative: Harry W. Asquith, 810 Bank of Knoxville Bldg., Knoxville, TN 37902. Transporting (1) *food products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of food products (except commodities in bulk), between points in the U.S., under a continuing contract(s) with Kraft, Inc., of Chicago, IL.

MC 128746 (Sub-66F), filed November 20, 1980. Applicant: D'AGATH NATIONAL TRUCKING CO., a corporation, 3240 South 61st St., Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M St., NW., Washington, DC 20036. Transporting (1) *containers, container closures, glassware, and packaging products,* (2) *scrap materials* (except commodities in bulk and those requiring special equipment), and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., restricted to traffic originating at or destined to Midland Glass Company, Inc.

MC 134017 (Sub-10F), filed November 24, 1980. Applicant: R.M. HENDERSON d.b.a. H & M MOTOR LINES, 500 Pine Knoll Dr., P.O. Box 3585, Greenville, SC 29608. Representative: Dean N. Wolfe, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting (1) *packaging materials,* and (2) *supplies* used in the manufacture of packaging materials, between points in the U.S., under continuing contract(s) with Armin Plastics South Carolina, Inc., of Greenville, SC.

MC 138237 (Sub-14F), filed November 12, 1980. Applicant: METRO HAULING, INC., P.O. Box 88824, Tukwila Branch, Seattle, WA 98188. Representative: John A. Anderson, Suite 1600, 1 Main Place, 101 S.W., Main St., Portland, OR 97204. Transporting (1) *metal and metal articles,* and (2) *pipe* between points in OR and WA, on the one hand, and, on the other, (a) between points in OR and WA, and (b) between points in OR and WA, on the one hand, and, on the other, points in ID and MT.

MC 143776 (Sub-10F), filed November 13, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting *sodium phosphates* (except in bulk), from Kearny, NJ to points in MI.

MC 144407 (Sub-25F), filed November 21, 1980. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 96 Rt. 23, Riverdale, NJ 07457. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, 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 the facilities used by Forest City Enterprises, of Cleveland, OH.

MC 146306 (Sub-5F), filed November 21, 1980. Applicant: JOHN D. LARNED d.b.a. J & P TRANSPORTATION, P.O. Box 16567, Denver, CO 80216. Representative: Edward J. Kiley, 1730 M St. NW., Washington, DC 20036. Transporting *General commodities* (except commodities in bulk), between points in the U.S., under continuing contract(s) with Acme Delivery Service, Inc., Craig-Imperial Distribution Co., L.J.R. Distribution Company, Craig's Distribution and Consolidation Company, and Imperial Distribution Services, Inc., all of Denver, CO. Condition: To the extent the permit to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 147987 (Sub-2F), filed November 18, 1980. Applicant: A & W TRUCKING 1975 LTD., 330 Edworthy Way, New Westminster, B.C. Canada V3L 5G5. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. Transporting (1) *wire and wire products,* (2) *iron, steel and lumber,* and (3) *waste paper for recycling,* between points in the U.S., under continuing contract(s) with True Island Steel, of Richmond, B.C., Canada, Tudor Sales Ltd., of Vancouver, B.C., Canada, and Community Paper Recycling Ltd., of Burnaby, B.C., Canada.

MC 149437 (Sub-15F), filed November 19, 1980. Applicant: DOUGLAS TRUCK LINES, INC., 587 S.W. First St., New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5,

Minneapolis, MN 55440. Transporting (1) *such commodities* as are dealt in or used by grocery, drug, hardware, and department stores, (2) *chemicals*, and (3) *paper and paper products*, from Minneapolis, MN to Grand Forks, ND.

MC 150467 (Sub-1F), filed November 20, 1980. Applicant: LAVERGNE EXPRESS, INC., 127 Vaughn Dr., LaVergne, TN 37086. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting (1) *chemicals or allied products*, (2) *rubber or miscellaneous plastic products*, and (3) *machinery* (except electrical), as described in Items (28), (30), and (35), respectively, of the Standard Transportation Commodity Code Tariff, and (4) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), (2), and (3) above, between points in the U.S.

MC 150567 (Sub-16F), filed November 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 (1) *lumber, wood products, paper and paper products*, and *building materials*, and (2) *equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Champion International Corporation, of Hamilton, OH.

MC 150756 (Sub-1F), filed November 21, 1980. Applicant: GUTHMILLER TRUCKING, INC., P.O. Box 206, 30700 Dyer St., Union City, CA 94587. Representative: Eldon M. Johnson, 650 California St., San Francisco, CA 94108. Transporting *containers and container closures*, between Fairfield and San Francisco, CA, and points in Alameda, Orange, Los Angeles, Contra Costa, Sacramento, San Bernardiono, Santa Clara and Stanislaus Counties, CA, on the one hand, and, on the other, points in AZ.

MC 152776F, filed November 16, 1980. Applicant: FRANK R. BEATTY, INC., t.d.b.a. FBI TRUCKING, R.D. No. 5, Box 507, Washington, PA 15301. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *lumber or wood products* (except furniture); *clay, concrete, glass or stone products; primary metal products, including galvanized* (except coating or other allied processing); *fabricated metal products* (except ordnance, machinery, or transportation equipment); *transportation equipment;* and *waste or scrap materials* not identified by industry producing, as described in Items 24, 32, 33, 34, 37, and 40, respectively, of the Standard Transportation Commodity Code Tariff, between points in AR, IL, IN, KS, KY, MD, MI, MO, OH, OK, PA, TN, TX, VA, and WV.

Volume No. OP5–075

Decided: December 4, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 1759 (Sub-42F), filed November 24, 1980. Applicant: FROEHLICH TRANSPORTATION COMPANY, INC., Federal Road, Danbury, CT 06810. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. Transporting *paper and paper products*, from St. Albans, VT, to points in CT and NY.

MC 3419 (Sub-12F) filed November 21, 1980. Applicant: THE CLEVELAND, COLUMBUS & CINCINNATI HIGHWAY, INC., 1375 Euclid Ave., Cleveland, OH 44115. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), (1) between Cincinnati, OH, and Richmond, KY, over U.S. Hwy 25, (2) between Louisville, KY, and Winchester, KY, over U.S. Hwy 60, (3) between Louisville, KY, and Nashville, TN, over U.S. Hwy 31W, (4) serving all intermediate points in (1), (2), and (3) above, and serving off-route points in Hamilton County, OH, Madison, Jefferson, and Clark Counties, KY, and Davidson County, TN.

MC 15558 (Sub-9F) filed November 16, 1980. Applicant: WARWOOD TRANSFER CO., a corporation, 2233–41 Warwood Ave., Wheeling, WV 26003. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *paper and paper products*, and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1), between Wellsburg, WV, Wickliffe, KY, Luke, MD, Covington, VA, Charleston, SC, and New Orleans, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 18738 (Sub-66F) filed November 13, 1980. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 W. 138th Street, Chicago, IL 60627. Representative: Walter F. Jones, Jr., 320 North Meridian Street, 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. Transporting *iron and steel articles*, between points in IN, IL, KY, OH, and MI.

MC 31389 (Sub-314F) filed November 21, 1980. Applicant: McLEAN TRUCKING COMPANY, a corporation, 1920 West First St., Winston-Salem, NC 27104. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27102. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, houshold goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between San Antonio, TX and Waco, TX over U.S. Hwy 81, serving the intermediate points of Austin and Temple, TX.

MC 31389 (Sub-315F) filed November 24, 1980. Applicant: McLEAN TRUCKING COMPANY, a corporation; 1920 West First St., Winston-Salem, NC 27104. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27102. Over regular routes, 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 the facilities of Peck, Inc. and B. F. Goodrich Co. at or near Bloomington, IN as off-route points in connection with applicant's otherwise authorized regular route operations.

MC 32779 (Sub-14F), filed November 20, 1980. Applicant: SILVER EAGLE COMPANY, a corporation, 2532 S.E., Hawthorne St., Portland, OR 97214. Representative: Larry B. Draper, 648 Industry Drive, Seattle, WA 98188. Transporting *general commodities* (except those of unusual value and household goods as defined by the Commission), between points in OR and WA. Condition: Any certificate issued in this proceeding to the extent it authorizes the transportation of classes A and B explosives shall be limited in term to a period of five years from date of issuance of the certificate.

MC 40978 (Sub-80F), filed November 21, 1980. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, a corporation, 3321 South Business Drive, Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. Transporting *expanded plastic articles*, between points in Marion County, IN, on the one hand, and, on the other, points in IL, IA, KY, MI, MN, MO, OH, and WI.

MC 52709 (Sub-401F), filed November 16, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *alcoholic beverages*, between Denver, CO, on the one hand, and, on the other, points in MD, MA, NJ, NY, and DC.

MC 56409 (Sub-16F), filed November 25, 1980. Applicant: MAJOR TRANSPORT, INC., Box 204, Highway 135 and Airport Rd., Palmyra, WI 53156. Representative: Jack Meyer, 111 East Wisconsin Ave., Milwaukee, WI 53202. Transporting (1) *electrical equipment and parts for electrical equipment,* (2) *gas welders,* and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2), between points in Waukesha County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 68898 (Sub-9F), filed November 17, 1980. Applicant: HANOVER TRANSFER COMPANY, a corporation, 409 East Hanover St., Hanover, PA 17331. Representative: Barry Roberts, 888 17th St., NW., Washington, DC 20006. 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 York, Admas, Dauphin and Cumberland Counties, PA, on the one hand, and, on the other, points in Harford, Baltimore, Carroll, Anne Arundel, Howard and Baltimore City Counties, MD.

MC 108119 (Sub-278F), filed November 25, 1980. Applicant: E. L. MURPHY COMPANY, a corporation, P.O. Box 43010. St. Paul, MN 55164. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Transporting (1) *steel dampers, and parts, attachments and accessories* for steel dampers, and (2) *materials, equipment, and supplies* used in the manufacture, installation, and servicing of the commodities in (1), between points in Hamilton County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 109638 (Sub-40F), filed November 21, 1980. Applicant: EVERETTE TRUCK LINE, INC., P.O. Box 1927, Washington, NC 27889. Representative: Cecil W. Bradley (same address as applicant). Transporting *general commodities* except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AL, CT, DE, FL, GA, MA, MD, NJ, NY, NC, OH, PA, RI, SC, VA, and WV.

MC 113158 (Sub-49F), filed November 24, 1980. Applicant: TODD TRANSPORT COMPANY, INC., Box 158, Secretary, MD 21664. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *foodstuffs* and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between points in NC, on the one hand, and, on the other, points in AL, CA, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MS NJ, NY, OH, PA, RI, SC, TN, VA, WV, and DC.

MC 118989 (Sub-237F), filed November 19, 1980. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, WI 53221. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. Transporting *beverages,* and *materials, equipment, and supplies* used in the manufacture and distribution of beverages (except commodities in bulk), between points in the U.S.

MC 121568 (Sub-67F), filed November 11, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in Tipton County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Turners Dairies, Inc.

MC 124839 (Sub-54F), filed November 20, 1980. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 500, Camden, SC 29020. Representative: William P. Sullivan, 818 Connecticut Ave. NW., Washington, DC 20006. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Weyerhaeuser Company, of Hot Springs, AR.

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Decided: December 8, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 129908 (Sub-69F), filed November 24, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th St., Oklahoma City, OK 7341. Representative: T. J. Blaylock, P.O. Box 75410, Oklahoma City, OK 73147. Transporting *furniture and fixtures,* between points in GA and NC, on the one hand, and, on the other, Oklahoma City, OK.

MC 134599 (Sub-189F), filed November 21, 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. Transporting *general commodities,* between points in the U.S., under continuing contract(s) with Stauffer Chemical Co., of Westport, CT. Condition: Any permit issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of issuance of the permit.

MC 138469 (Sub-257F), filed November 25, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *alcoholic beverages* (except in bulk), from Detroit, MI to points in AZ, CA, LA, NM, and NV.

MC 139979 (Sub-10F), filed November 24, 1980. Applicant: AMERICAN COLLOID CARRIER CORP., P.O. Box 951, Scottsbluff, NE 69361. Representative: James P. Beck, 717 17th St., Suite 2600, Denver, CO 80202. Transporting *general commodities* (except classes A and B explosives and houehold goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Bemis Company, Inc., of Minneapolis, MN and its subsidiaries.

MC 140379 (Sub-13F), filed November 20, 1980. Applicant: TRANSPORT SERVICE, INC., 216 Amaral St., P.O. Box 4167, East Providence, RI 02914. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *brass articles, copper articles, and aluminum articles,* between points in the U.S., under continuing contract(s) with United Wire & Supply Corp., of Cranston, RI.

MC 145079 (Sub-1F), filed November 21, 1980. Applicant: ALBERT J. AMATUZIO AND RICHARD A. AMATUZIO, a partnership, d.b.a. AMO EXPRESS, 2206 Winter St., Superior, WI 54880. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *such commodities* as are dealt in by food business houses, between points in the U.S., under continuing contract(s) with Pacific Gamble Robinson Co., of Seattle, WA.

MC 145108 (Sub-32F), filed November 21, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with Tootsie Roll Industries, Inc., of Chicago, IL.

MC 145108 (Sub-33F), filed November 21, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *bakery supplies*, (2) *foodstuffs*, and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2) (except commodities in bulk), between points in the U.S., under continuing contract(s) with J. W. Allen Company, of Wheeling, IL.

MC 145108 (Sub-34F), filed November 21, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *paper and paper products*, (2) *plastic articles*, and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2), between points in the U.S., under continuing contract(s) with Stone Container Corporation, of Chicago, IL.

MC 150528 (Sub-1F), filed November 24, 1980. Applicant: SOON LEE, MILTON LEE AND DENNIS LEE, d.b.a. LEE & LEE, P.O. Box 628, Woodland, CA 95695. Representative: James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. 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 Made Rite Prepared Meats, Inc., of Sacramento, CA.

MC 151359 (Sub-1F), filed November 21, 1980. Applicant: PAC-WEST CARRIERS, INC., P.O. Box 873, Los Alamitos, CA 90720. Representative: Miles L. Kavaller, 315 So. Beverly Dr., Suite 315, Beverly Hills, CA 90212. Transporting *general commodities* (classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with ABC-Trans National Transport, Inc., and Acme Fast Freight, Inc. both of Los Angeles, CA.

MC 151729 (Sub-1F), filed November 21, 1980. Applicant: SKI-DON CORPORATION., Siler Route, Box 151–A, Winchester, VA 22601. Representative: Earl J. Fuller, Sr. (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with Shenandoah Apple Co-Operative, Inc., and National Fruit Product Co., Inc., both of Winchester, VA.

MC 152638F, filed November 5, 1980. Applicant: CYRUS R. MACE AND BETTY G. MACE, d.b.a. ROCKY MOUNTAIN TOURS, P.O. Box 1811, Whitefish, MT 59937. Representative: Cyrus R. Mace (same address as applicant). To engage in operations as a *broker*, at Whitefish, MT, to arrange for the transportation by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in ID, WA, and MT, on the one hand, and, on the other, points in the U.S. (including AK and HI).

MC 152709 (Sub-1F), filed November 24, 1980. Applicant: INTERMODAL MARKET CORP., 1448 Wabash Ave., Suite 406, Detroit, MI 48216. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084. Transporting (1) *phonograph records, and tapes*, and (2) *materials and supplies* used in the distribution of the commodities in (1) above, between points in Wayne, Oakland, and Macomb Counties, MI, on the one hand, and, on the other, points in Livingston County, MI, restricted to traffic having a prior or subsequent movement by rail.

MC 152818F, filed November 24, 1980. Applicant: R & H TRUCKING CO., INC., 184 Doremus Ave., Newark, NJ 07105. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *petroleum products* in bulk, between Philadelphia, PA, points in Lehigh County, PA, Westchester, Nassau and Orange Counties, NY, and points in NJ, on the one hand, and, on the other, New York, NY, and points in Lehigh, Bucks, Montgomery, Northampton, Monroe, Pike, Delaware and Philadelphia Counties, PA, Nassau, Suffolk, Westchester, Dutchess, Rockland, Sullivan, Putnam, Orange, and Ulster Counties, NY, and points in NJ, CT, and DE.

MC 152878F, filed November 24, 1980. Applicant: LEXINGTON CARTAGE COMPANY, a corporation, 2180 Young Drive, P.O. Box 1778, Lexington, KY 40593. Representative: Herbert D. Liebman, 403 West Main St., P.O. Box 478, Frankfort, KY 40602. Transporting (1) *such commodities* as are dealt in by drug, grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with The Proctor & Gamble Distributing Co., and The Proctor & Gamble Manufacturing Co., both of Cincinnati, OH. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage, i.e., either by (1) furnishing transportation service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (2) furnishing transportation services designed to meet the distinct need of each individual customer, and if the latter, applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 152879F, filed November 20, 1980. Applicant: AIRLANDSEA TRAVEL AND TOUR, INC., 106 North Brady St., DuBois, PA 15801. Representative: D. Brent Pasquinelli, R.D. #4, T.L. Box 321, DuBois, PA 15801. To engage in operations as a *broker*, at DuBois and State College, PA, to arrange for the transportation by motor vehicle, of *passengers and their baggage*, between points in Clearfield and Centre County, PA, on the one hand, and, on the other, points in the U.S., including AK and HI.

Volume No. OP5–077

Decided: December 8, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 3468 (Sub-179F) filed November 25, 1980. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., 705 South Dort Highway, Flint, MI 48501. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. Transporting *new automobiles and trucks* from Newark, NJ, to points in NC and VA.

MC 47898 (Sub-9F) filed November 26, 1980. Applicant: WISCONSIN PACIFIC EXPRESS, INC., P.O. Box 190, Weyauwega, WI 54983. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting (1) *foodstuffs*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, and (3) *such commodities* as are dealt in by gift and curio shops, between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 52709 (Sub-402F), filed November 17, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312. Transporting *general commodities* (except household goods as defined by the Commission), between points in AZ, AR, CA, CO, CT, DE, ID, IL IN, IA, KS, KY, MD, MA, MI,

MN, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OR, PA, RI, SD, UT, VA, WA, WV, WI, WY, and DC. Conditions: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of all existing certificates. Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited to a period expiring five years from the date of issuance of the certificate.

MC 118989 (Sub-236F), filed November 20, 1980. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, WI 53221. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. Transporting (1) *paper and paper products,* (2) *packaging materials,* (3) *janitorial equipment,* and (4) *printing equipment,* and (5) *materials, equipment, and supplies* used in the manufacture, conversion, or distribution of the commodities in (1), (2), (3), and (4), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to facilities used by Hammermill Paper Company.

MC 119968 (Sub-21F), filed November 25, 1980. Applicant: A. J. WIGAND, INC., 1046 North Tuscarawas Ave., Dover, OH 44622. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting *liquid chemicals,* in bulk, in tank vehicles, between points in Marshall County, WV, on the one hand, and, on the other, points in OH.

MC 121598 (Sub-12F), filed November 17, 1980. Applicant: SHELBYVILLE EXPRESS, INC., Old Railroad Ave., Shelbyville, TN 37160. Representative: James G. Caldwell (same address as applicant). Transporting *such commodities* as are dealt in by manufacturers and distributors of airconditioning and heating equipment, between points in the U.S.

MC 121699 (Sub-13F), filed November 25, 1980. Applicant: VOLUNTEER EXPRESS, INC., 404 Arlington Ave., P.O. Box 100886, Nashville, TN 37210. Representative: Douglas R. Tate (same address as applicant). Transporting *paperback books, and materials, equipment, and supplies* used in the manufacture and distribution of paperback books (except commodities in bulk), between Dresden, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 125708 (Sub-209F), filed November 16, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 109 Velma, South Roxana, IL 62087. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting *lumber, wooden pallets, blocking material, and lumber products,* between points in Wayne County, MO, on the one hand, and, on the other, points in IL, MI, WI, IN, IA, MN, AR, TN, KY, OH, PA, and KS.

MC 125708 (Sub-210F), filed November 24, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 109 Velma, South Roxana, IL 62087. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting *nonferrous metals, nonferrous metal products, and materials and supplies* used in the manufacture and distribution of nonferrous metals and nonferrous metal products, between Bedford, OH, on the one hand, and, on the other, points in PA, WV, IN, IL, MI, MO, TN, NY, CT, OK, TX, NH, NC, and WI.

MC 129189 (Sub-9F), filed November 21, 1980. Applicant: WING CARTAGE COMPANY, a corporation, 4141 George Place, Schiller Park, IL 60176. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *precast or prestressed, concrete forms, and steel shoring material,* from points in Cook County, IL, to points in KY.

MC 138388 (Sub-11F), filed November 21, 1980. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53557. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting (1) *cheese and cheese products, and artificial cheese and artificial cheese products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in IL, IN, IA, MI, MN, OH, and WI, restricted to traffic originating at or destined to facilities used by Borden Foods Division, Borden, Inc.

MC 138469 (Sub-256F), filed November 25, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by glass manufacturers (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Libbey-Owens-Ford Company.

MC 138899 (Sub-5F), filed November 24, 1980. Applicant: GREEN RIVER TRANSPORTATION COMPANY, INC., P.O. Box 634, Central City, KY 42330. Representative: Ray S. Stone (same address as applicant). Transporting (1) *iron and steel articles, and aluminum and aluminum articles,* between points in the U.S., under continuing contract(s) with Levinson Metal Company, Inc., of Greenville, KY.

MC 141318 (Sub-5F), filed November 25, 1980. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., a corporation, 531 North Eighth St., Medford, WI 54451. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *urethane foam, and materials, equipment, and supplies* used in the manufacture and distribution of urethane foam, between points in the U.S., under continuing contract(s) with Clark Foam Products, Inc., of Chicago, IL.

MC 142519 (Sub-9F), filed November 25, 1980. Applicant: DELIVERY SERVICE CORPORATION, 1141 Springwells, Detroit, MI 48209. Representative: William B. Elmer, 624 Third St., Traverse City, MI 49684. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives), between points in the U.S., under continuing contract(s) with Dow Chemical Corporation, USA, of Plaquamine, LA.

MC 152428 (Sub-1F), filed November 24, 1980. Applicant: B. L. CARTAGE COMPANY, a corporation, 10735 South Cicero Ave., Oak Lawn, IL 60453. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *petroleum and petroleum products and coal products,* in bulk, between points in the U.S., under continuing contract(s) with Amoco Oil Company, of Chicago, IL.

MC 152568 (Sub-1F), filed November 28, 1980. Applicant: KRISTLER-AMELING TRANSPORTATION CO., INC., 408 East Indiana St., Kouts, IN 46347. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. Transporting *food or kindred products* as described in item No. 20 of the Standard Transportation Commodity Code, between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 152839F, filed November 21, 1980. Applicant: ROCKET MOTOR FREIGHT LINES, INC., P.O. Box 623, Peoria, IL 61606. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *petroleum products,* between points in IL, on the one hand, and, on the other, points in IN and MO.

Volume No. OP5–078

Decided: December 4, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC8028 (Sub-7F), filed November 12, 1980. Applicant: BARRIEAU EXPRESS, INC., 301 Murphy Rd. Hartford, CT 06114. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. Transporting (1) *Office and business machines*, (2) *electronic and electrical equipment*, (3) *parts* for the commodities in (2) and (4) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), (2) and (3) above, between points in Hartford and Tolland Counties, CT, on the one hand, and, on the other, points in the U.S. (except HI).

MC 57239 (Sub-57F), filed November 13, 1980. Applicant: RENNER'S EXPRESS, INC. 1350 South West Street, Indianapolis, IN 46225. Representative: James R. Smith (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and commodities requiring special equipment), (1) between Hillsdale and Adrian, MI, over Michigan Hwy 34, serving all intermediate points, and (2) between Jackson, MI, and Toledo, OH, serving all intermediate points: from Jackson over U.S. Hwy 127 to junction U.S. Hwy 223, then over U.S. Hwy 223 to Toledo, and return over the same route.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 69059 (Sub-1F), filed November 7, 1980. Applicant: ROGER L. MOSEL, Plainview, NE 68769. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *such commodities* as are dealt in or used by the agricultural industry, between points in AL, AR, IA, KS, MO, NE, NM, OK, OR, TX, and WA, on the one hand, and, on the other, points in IA, MN, ND, NE, and SD.

MC 142909 (Sub-12F), filed November 11, 1980. Applicant: TIMBER TRUCKING, INC., 35 S. 6th W. St., Salt Lake City, UT 84101. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *machinery, and road construction equipment*, between points in UT, ID, WY, CO, NV, CA, TX, FL, WV, and NC.

MC 143059 (Sub-142F), filed October 31, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Janice K. Taylor (same address as applicant). Transporting (1) *machinery*, and (2) *oilwell drilling equipment*, between points in Oklahoma County, OK, on the one hand, and, on the other, points in the U.S.

MC 143059 (Sub-144F), filed November 13, 1980. Applicant: MERCER TRANSPORTATION CO., a corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same address as applicant). Transporting *metal products*, between points in Clark County, NV, on the one hand, and, on the other, points in the U.S.

MC 145108 (Sub-35F), filed November 26, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *bakery goods, and materials, equipment, and supplies* used in the manufacture and distribution of bakery goods (except commodities in bulk), between points in the U.S., under continuing contract(s) with Pogens Family Bakery, Inc., of Compton, CA.

MC 145168 (Sub-2F), filed November 28, 1980. Applicant: JAMES H. BRACKEEN, d.b.a. BRACKEEN TRUCKING, Route 2, Scurry, TX 75158. Representative: Thomas L. Cook, First Continental Bank Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75247. Transporting *motorcycles*, (1) between points in TX, on the one hand, and, on the other, points in LA, and (2) between points in TX.

MC 145179 (Sub-6F), filed November 20, 1980. Applicant: J & J CONTRACT CARRIER, INC., 60 South State St., Indianapolis, IN 46201. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with The Kroger Company, of Cincinnati, OH. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 145219 (Sub-18F), filed November 18, 1980. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 500, Camden, SC 29020. Representative: B. M. Shirley (same as applicant) and William P. Sullivan, 818 Connecticut Ave., NW., Washington, D.C. 20006. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives) between those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX. Condition: Issuance of a certificate in this proceeding is conditioned upon the coincidental cancellation, at applicant's written request, of its permits in No. MC–124839, and MC–124839 Subs 3, 6, 16, 23, 26, 28, 30, 31, 33, 37, 39, 43, 47, 48, 49, 52, and 53 to the extent they are duplicated by the authority granted here.

Note.—This request involves both conversion of contract carrier authority to common and consolidation of authorities.

MC 146448 (Sub-24F), filed November 26, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Transporting *foodstuffs*, between Lansing, IL, and points in White County, AR, on the one hand, and, on the other, points in the U.S.

MC 146729 (Sub-11F), filed November 12, 1980. Applicant: H & G LEASING, 2509 Inwood Rd., Dallas, TX 75235. Representative: D. Paul Stafford, Suite 1125, Exchange Pk., P.O. Box 45538, Dallas, TX 75245. Transporting *synthetic resin granules, and materials* used in the manufacture of synthetic resin, between points in Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in CA, PA, IN, FL, OR, WA, VA, MN, SC, TN, KY, MA, NY, VT, and LA.

MC 147969 (Sub-4F), filed November 19, 1980. Applicant: JOE S. BOWEN, INC., Highway 264 East, P.O. Box 262, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting (1) *furniture parts, metal products, and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Leggett and Platt, Inc., and its affiliates.

MC 148119 (Sub-1F), filed November 25, 1980. Applicant: T. B. & P. EXPRESS, INC., St. Rte. 67 & Middletown Rd., P.O. Box 71, Daleville, IN 47334. Representative: David A. Turano, 100 E. 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 the U.S. under continuing contract(s) with General Motors Corporation of Detroit, MI.

MC 148208 (Sub-8F), filed November 18, 1980. Applicant: FUR BREEDERS AGRICULTURAL COOPERATIVE, a corporation, P.O. Box 295, 8400 South 600 West, Midvale, UT 84047. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. Transporting *chemicals*, between points in the U.S., under continuing contract(s)

with Van Waters & Rogers, a Division of UNIVAR, of Salt Lake City, UT.

MC 148678 (Sub-3F), filed November 5, 1980. Applicant: McGRATH TRUCKING INC., 229 Old Elm St., Mansfield, MA 02048. Representative: Ronald M. McGrath (same address as applicant). Transporting *such commodities* as are dealt in or used by department stores, between points in the U.S., under continuing contract(s) with Zayre Corporation, of Framingham, MA.

MC 150949 (Sub-5F), filed November 6, 1980. Applicant: NFI, INC., Box 664, Waxahachie, TX 75165. Representative: Gerald S. Duzinski, 71 West Park Ave., Vineland, NJ 08360. Transporting *such commodities* as are dealt in or used by automotive supply stores and household appliance stores, between points in AZ, NM, OK, KS, and TX, restricted to traffic originating at or destined to the facilities of Western Auto Supply Company.

[FR Doc. 80-38939 Filed 12-15-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants by Alvin F. Laskin and Poplar Oil Co.

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 3, 1980, a proposed consent decree in *United States of America* v. *Alvin F. Laskin and Poplar Oil Co.*, Civil Action No. C-79-7594 (N.D. Ohio), was lodged with the United States District Court. The defendants, Alvin Laskin, an individual, and Poplar Oil Co., an Ohio corporation, own and operate a waste oil collection, storage, and disposal facility from which water containing oil is discharged to a stream in Jefferson, Ohio. The proposed consent decree requires the defendants to comply with the Clean Water Act by either eliminating any point-source discharge of pollutants to navigable waters of the United States or to obtain an NPDES permit, within one year from the approval of the decree. The decree also requires compliance with interim effluent limitations for the existing discharge of pollutants and also with EPA's regulations under the Toxic Substances Control Act (TSCA) regarding the dispoal of PCB-contaminated oil. Schedules of compliance for both Clean Water Act and TSCA matters and stipulated penalties for violations of that schedule are included within the decree. In addition, the decree requires the defendants to pay a civil penalty under § 309 of the Clean Water Act.

The proposed consent decree may be examined at the Office of the United States Attorney (Attn: Dennis Zapka), Room 400, U.S. Courthouse, 215 Superior Ave., N.E., Cleveland, Ohio 44114; at the Region V—Enforcement Division, Office of the U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section, Land & Natural Resources Division of the Department of Justice, Room 1254, Tenth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained by person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the U.S. Department of Justice.

The Department of Justice will receive written comments relating to the proposed decree until January 15, 1981. Comments should be addressed to Angus Macbeth, Deputy Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to: *United States of America* v. *Alvin Laskin, et al.*, Civil Action No. C-79-7594 (N.D. Ohio), DOJ No. 90-5-1-1-1273. A check or money order in the amount of $1.30 payable to the Treasurer of the United States should accompany any request.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-38960 Filed 12-15-80; 8:45 am]

BILLING CODE 4410-01-M

Amended Consent Decree in Action Under the Clean Air Act in Which the United States Seeks To Enforce Compliance by the Ironton Coke Corporation With the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on November 20, 1980 a proposed amended consent decree in *United States of America* v. *Ironton Coke Corporation* was lodged with the United States District Court for the Southern District of Ohio. Under the proposed amendment, Ironton Coke Corporation would be granted a two-year extension of the original March 9, 1979 consent decree. Ironton Coke Corporation would therefore have until December 30, 1982 to come into compliance with the Ohio State Implementation Plan.

In order to minimize the environmental impact of the extension of time, Ironton has agreed to comply with interim emission limitations which had not been provided for in the original order and with more stringent final emission limitations. The amendment also provides for stipulated penalties of $7,500 per day for failure to comply with the terms of the amended decree and a surety bond in the amount of $1,200,000.

The proposed amendment may be examined at the office of the United States Attorney, United States Courthouse, 85 Marconi Boulevard, Room 200, Columbus, Ohio 43215; at the Region V office of the Environmental Enforcement Agency, Air Enforcement Branch, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth and Pennsylvania Avenue, N.W., Washington, D.C., 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. The Department of Justice will receive written comments relating to the proposed consent decree until January 15, 1981. Comments should be directed to the Deputy Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, N.W., Washington, D.C., 20530 and should refer to *United States of America* v. *Ironton Coke Corporation*, D.J. Ref. 90-5-2-1-135. In requesting a copy, please enclose a check in the amount of $1.30 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-38961 Filed 12-15-80; 8:45 am]

BILLING CODE 4410-01-M

U.S. DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 80-38]

Merck & Co., Inc.; Importation and Manufacture of Controlled Substances, Objections, Requests for Hearing, and Hearing

On August 14, 1980 at 45 FR 54156, notice was given that Merck & Co., Inc., Merck Chemical Manufacturing Div., P.O. Box 2000, Lincoln Avenue, Attn: Office of the Secretary, Rahway, New Jersey 07065, had made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the following basic class of controlled substances: codeine, ethylmorphine,

hydrocodone, morphine, thebaine and anileridine, all listed in Schedule II of the Controlled Substances Act of 1970.

On August 29, 1980 at 45 FR 57790, notice was given that Merck & Co., Inc., address as above, had made application to the Drug Enforcement Administration to be registered as an importer of concentrate of poppy straw, a basic class controlled substance listed in Schedule II of the Controlled Substances Act of 1970. On November 10, 1980 a Correction Notice of Application was published at 45 FR 74596 advising that the application for registration as an importer filed by Merck & Co. (45 FR 57790) had also included raw opium in addition to concentrate of poppy straw.

Opportunity was given in these notices for the filing of comments and objections to these applications and for the filing of requests for hearing with respect to them.

Requests for hearing were filed by McNeilab, Inc., by Lee Laboratories, Inc., and by Burroughs Wellcome Co. with respect to both applications. Each of these entities is already registered to manufacture, and/or is presently an applicant for registration to import and/or to manufacture, in bulk, one or more of the same basic class controlled substances identified in the applications of Merck.

McNeilab states that its opposition to Merck's applications for registration is conditional in nature, being predicated upon the position taken by Merck in its opposition to McNeilab's pending applications that no more than three companies should be registered as importers and bulk manufacturers of the subject controlled substances. McNeilab believes that if that position is accepted by the Drug Enforcement Administration, then McNeilab, rather than Merck, should be one of the three companies to be registered. McNeilab also believes that, if only three companies are to be so registered, registration of Merck rather than of McNeilab would be contrary to the public interest criteria set forth in 21 U.S.C. 958 and 823(a) with respect to, *inter alia*, competitive conditions, technical advances in the art of manufacturing and development of new substances, higher prices to consumers, and maintenance of effective controls against diversion.

Burroughs Wellcome Co. states that there are eight firms which have applications for registration similar to those of Merck currently pending before the Drug Enforcement Administration. Burroughs Wellcome asserts that it may be that Merck's applications should not be granted prior to the completion of all required hearings on all of the pending applications in light of the decision of the Supreme Court in *Ashbacker Radio Corp. v. FCC*, 326 US 327 (1945). Burroughs Wellcome also asserts that the subject applications of Merck should not be granted until Burroughs Wellcome has had the opportunity to examine all of the information on which Merck relies in support of its applications and to raise further objections with respect thereto.

Lee Laboratories, Inc. states that it desires to be heard with respect to the issue of whether the registration of Merck is consistent with the public interest criteria set forth in the Controlled Substances Import and Export Act and applicable regulations and with United States international treaty obligations.

Accordingly, notice is hereby given pursuant to 21 CFR 1301.43 and 1311.42 that a hearing will be held on the aforesaid applications for registration commencing at 10 a.m. on Friday, January 16, 1981, in Hearing Room No. 3, Gelman Building, Lower Level, 2120 L Street, NW., Washington, D.C. the proceedings on that day to be limited to a preliminary discussion to identify proper parties and issues, and to determine procedure and set dates and locations for further proceedings. Any person entitled to participate in said hearing and desiring to do so must file a Notice Of Appearance pursuant to 21 CFR 1301.54 and 1316.48 on or before January 15, 1981. A person who had filed a request for hearing need not also file a Notice Of Appearance.

Dated: December 11, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-39080 Filed 12-15-80; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 80-39]

Penick Corp.; Importation and Manufacture of Controlled Substances, Objections, Requests for Hearing, and Hearing

On August 14, 1980 at 45 FR 54156, notice was given that Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, had made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the following basic class of controlled substances: pholcodine and LAAM, listed in Schedule I of the Controlled Substances Act of 1970: and codeine, dihydrocodeine, oxycodone, diphenoxylate, hydrocodone, meperidine, methadone, methadone-Intermediate, morphine, thebaine, opium extracts, opium fluid extracts, opium tinctures, opium powders, opium granulated mixed alkaloids of opium, concentrate of poppy straw, phenazocine, and fentanyl, all listed in Schedule II of the Controlled Substances Act of 1970.

On September 11, 1980 at 45 FR 60044, notice was given that Penick Corporation, 530 New York Avenue, Lyndhurst, New Jersey 07071, had made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the following basic class of controlled substances; LAAM, listed in Schedule I of the Controlled Substances Act of 1970; and diphenoxylate, methadone, methadone-Intermediate, and concentrate of poppy straw, all listed in Schedule II of the Controlled Substances Act of 1970.

On November 10, 1980, at 45 FR 74596, notice was given that Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, had made application to the Drug Enforcement Administration to be registered as an importer of the following basic class of controlled substances: raw opium, poppy straw (opium plant form), and concentrate of poppy straw, all listed in Schedule II of the Controlled Substances Act of 1970.

Opportunity was given in these notices for the filing of comments and objections to these applications and for the filing of requests for hearing with respect to them.

Requests for hearing were filed by McNeilab, Inc., by Lee Laboratories, Inc., and by Burroughs Wellcome Co. with respect to these applications. Each of these entities is already registered to manufacture, and/or is presently an applicant for registration to import and/or to manufacture, in bulk one or more of the same basic class controlled substances identified in the applications of penick. In addition, Burroughs Wellcome Co. requested that hearings held on Penick's application for registration at its Newark, New Jersey, facility be consolidated with those held on its application for registration at the Lyndhurst, New Jersey, facility.

McNeilab states that its opposition to Penick's applications for registration is conditional in nature, being predicated upon the position taken by Penick in its opposition to McNeilab's pending applications that no more than three companies should be registered as importers and bulk manufacturers of the subject controlled substances. McNeilab believes that if that position is accepted by the Drug Enforcement Administration, then McNeilab, rather than Penick, should be one of the three

companies to be registered. McNeilab also believes that, if only three companies are to be registered, registration of Penick rather than of McNeilab would be contrary to the public interst criteria set forth in 21 U.S.C. 958 and 823(a) with respect to, *inter alia*, competitive conditions, technical advances in the art of manufacturing and development of new substances, higher prices to consumers, and maintenance of effective controls against diversion.

Burroughs Wellcome Co. states that there are eight firms which have applications for registration similar to those of Penick currently pending before the Drug Enforcement Administration. Burroughs Wellcome aserts that it may be that Penick's applications should not be granted prior to the completion of all required hearings on all of the pending applications in light of the decision of the Supreme Court in *Ashbacker Radio Corp.* v. *FCC*, 326 US 327 (1945). Burroughs Wellcome also states that in earlier proceedings on similar applications (In The Matter Of McNeilab, DEA Docket No. 78–13), Penick took the position that vertical integration of codeine formulators into the bulk manufacture of codeine is anti-competitive and contrary to the public interest. although Burroughs Wellcome belives that Penick is incorrect, it submits that, should this position be accepted by the Drug Enforcement Administration or the Courts in the McNeilab proceedings or in related proceedings, Penick's operation of a facility for manufacturing concentrate of poppy straw while also engaging in the bulk manufacture od codeine would likewise be anti-competitive and contrary to the public interest.

Lee Laboratories, Inc. states that it desires to be heard with respect to the issue of whether the registration of Penick is consistent with the public interest criteria set forth in the Controled Substances Import and Export Act and applicable regulations and with United States international treaty obligations.

Accordingly, notice is hereby given pursuant to 21 CFR 1301.43 and 1311.42 that a hearing will be held on the aforesaid applications for registration commencing at 11:30 a.m. on Friday, January 16, 1981, in Hearing Room No. 3, Gelman Building, Lower Level, 2120 L Street, NW, Washington, D.C., the procedings on that day to be limited to a preliminary discussion to identify proper parties and issues, and to determine procedures and set dates and locations for further proceedings. any person entitled to participate in said hearing and desiring to do so must file a Notice Of Appearance pursuant to 21 CFR 1301.54 and 1316.48, on or before January 15, 1981. A person who has filed a request for hearing need not also file a Notice Of Appearance.

Dated: December 11, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-39081 Filed 12-15-80; 8:45 am]

BILLING CODE 4410.09.M

[Docket No. 80-32]

William G. Walston, d.b.a. Karl Plaza Pharmacy; Final Order; Denial of Registration

On August 25, 1980, the Administrator of the Drug Enforcement Administration (DEA) directed to William G. Walston, doing business as Karl Plaza Pharmacy (Respondent), an Order to Show Cause as to why the Drug Enforcement Administration should not deny the application he filed on April 11, 1980, for a DEA Certificate of Registration under 21 U.S.C. 823. The predicate for the Order to Show Cause was Respondent's conviction on September 21, 1979, in the Franklin County Court of Common Pleas, Columbus, Ohio, of two (2) counts of trafficking in drugs, in violation of Section 2925.03 of the Revised Code of Ohio; and one (1) count of oversale of exempt narcotics, in violation of Section 3719.16 of the Revised Code of Ohio. These are controlled substance-related felonies.

Respondent, through counsel, wrote the Honorable Francis L. Young, Administrative Law Judge, on September 24, 1980, requesting a continuance of thirty days for the filing of his response to the Order to Show Cause. The request was based on three considerations. First, the Ohio State Board of Pharmacy had not, as of that time, issued a decision concerning Respondent's license to practice pharmacy. Second, Respondent had been indicted again on controlled substance-related charges, and his attorney was involved in plea bargaining discussions that might involve the voluntary surrender of Respondent's pharmacy license. Third, Respondent was involved in negotiations to sell his business. Judge Young, on September 26, 1980, extended to October 24, 1980 the date by which Respondent could request a hearing. Respondent did not request a hearing. On October 31, 1980, Judge Young issued an order for prehearing statements to be submitted by the Government and Respondent by November 21, 1980. The Government submitted a prehearing statement identifying issues and listing witnesses and evidence it intended to introduce. Respondent did not submit a prehearing statement or other correspondence. On December 1, 1980, Judge Young ordered the proceedings terminated. Pursuant to § 1301.54(d) and 1301.54(e) of Title 21 of the Code of Federal Regulations, the Administrator finds that Respondent has waived his right to a hearing in this matter, and enters this final order based upon the record as it appears.

Examining the record, the Administrator finds that Mr. Walston pled guilty on September 21, 1979, to two (2) counts of trafficking in drugs less than the bulk amount in violation of Section 2925.03(A) of the Ohio Revised Code; and one (1) count of oversale of exempt narcotics in violation of Section 3719.16 of the Ohio Revised Code. These are controlled substance-related felonies. Respondent was sentenced to a minimum of two (2) and a maximum of five (5) years incarceration on each count, execution of the sentences suspended. Respondent was placed on probation for five (5) years. He was also fined $2,500 on each count, for a total fine of $7,500.

The Administrator finds that Respondent operated the Karl Plaza Pharmacy in Columbus, Ohio. Respondent was arrested January 18, 1979 for the violations described. Columbus Police Department Narcotics Detectives were maintaining surveillance on the Karl Plaza Pharmacy based on information from a police department in Indiana, that a particular individual was travelling to Columbus to purchase large quantities of a narcotic based cough preparation, Cheracol. This individual's name had appeared previously on the Exempt Narcotics Register that Karl Plaza Pharmacy was required to keep. The individual was also a convicted drug trafficker. The individual arrived by car at the pharmacy and went inside. About fifteen minutes later, he existed the pharmacy and walked to his vehicle. He was carrying a brown paper bag from which a Columbus detective could hear the rattling of glass bottles. The officer opened the bag and found thirteen (13) bottles of Cheracol. The officer arrested the individual for illegal possession of

exempt narcotics and conducted a search incident to the arrest which yielded 75 Doriden 500 mg. tablets in an unlabeled amber pill bottle, the same style as used by Karl Plaza Pharmacy. Doriden is a Schedule III controlled substance.

The Administrator finds further that the officers entered the pharmacy, arrested Respondent and advised him of his *Miranda* rights. Respondent could not produce prescriptions for the Cheracol or Doriden. The officers brought the individual back inside the pharmacy, and he identified Respondent as his source of supply. The individual told the officers that he had paid Respondent $125 for the drugs. A search of Respondent incident to his arrest yielded two packets of currency containing the exact denominations described by the individual.

The Administrator finds further that on September 24, 1980, the Ohio State Board of Pharmacy revoked Respondent's license to practice pharmacy in the State of Ohio, thus terminating his authority to dispense, distribute or possess controlled substances.

Having reviewed the investigative file, the Administrator concludes that there are lawful grounds for the denial of Respondent's application for a DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(2). This Administration has held that the registration of a pharmacy can be revoked, or an application for registration denied, if the registered pharmacist who owns or otherwise controls the pharmacy, is convicted of a controlled substance-related felony. (In the Matter of Nicholas G. Gakidis, t/a New Seabury Pharmacy, Docket No. 76–2, 41 FR 52555 (November 30, 1976)). It is the decision of the Administrator to deny Respondent's application for DEA registration since Respondent, William G. Walston, was convicted of a felony related to controlled substances and his pharmacist's registration was revoked. Accordingly, pursuant to the authority vested in the Attorney General in 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby denies the application for registration executed by William G. Walston, d.b.a. Karl Plaza Pharmacy, on April 11, 1980, effective January 15, 1981.

Dated: December 9, 1980.

Peter B. Bensinger,

Administrator.

[FR Doc. 80-39082 Filed 12-15-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-80-150-C]

Beckley Lick Run Co.; Petition for Modification of Application of Mandatory Safety Standard

Beckley Lick Run Company, P.O. Box 272, Mount Hope, West Virginia 25880, has filed a petition to modify the application of 30 CFR 75.1100–2(b) (belt conveyors-firefighting requirements) to its Bonny Mine located in Raleigh County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The slope at the mine has two separate compartments with the slope belt installed in the upper compartment and the haulage track in the lower compartment.

2. The partition between the upper and lower compartments has man doors at intervals of 250 feet.

3. The mine is in the early stages of development and connections have been made with the return air shaft, with development toward the intake air shaft in progress. The intake air is traveling down the bottom compartment of the slope. The slope belt is on a separate split of intake air, which is coursed directly to the return.

4. Because winter weather conditions are severe in the location of the mine, the required waterline along the slope belt would be subject to freezing and bursting during winter months.

5. As an alternate method to installing waterlines parallel to the entire length of belt conveyors, petitioner proposes to:

a. Use a dry type firefighting system that would be activated electrically or manually by valves located on the surface near the hoist house, which is adjacent to the slope mouth;

b. Equip the slope belt with an automatic fire sensory system that gives a warning automatically when a fire is detected at or near the belt;

c. Provide an electric valve that would automatically charge the water line when the fire sensoring system is activated;

d. Install a by-pass system with a manual drive at the electric valve so that the waterline can be charged with water during a power failure;

e. Install a warning signal from the automatic fire sensory system which will be audible in the lamp house or mine office where mine personnel will be on duty whenever employees are underground. The person hearing the alarm will be able to manually activate the dry line within three minutes if necessary.

f. Equip the slope belt with limit switches that will shut off the belt in the event the belt is out of alignment, reducing the risk of fire caused by friction;

g. Not equip the slope belt drive with a deluge system, since it is located 300 feet outby the slope mouth;

h. Inspect the automatic fire sensor and warning system weekly and perform a functional test of the complete system at least once annually. A record of the weekly inspection and annual functional test will be maintained.

6. Petitioner states that the proposed alternate method will at all times guarantee the miners affected the same measure of protection as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 15, 1981. Copies of the petition are available for inspection at that address.

Dated: December 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-38967 Filed 12-15-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-145-C]

Tri-Star Mining Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Tri-Star Mining Company, Inc., Box 42–B, Stacy, Virginia 24616 has filed a petition to modify the application of 30 CFR 75.1710 (Electric face equipment) to its Mine No. 3 located in Buchanon County, Virginia, in accordance with section 101(c) of the Federal Mine Safety and Healty Act of 1977.

A summary of the petitioner's statements follows:

1. Coal heights may drop to 40 inches at times.

2. The petitioner's roof bolter height is 27.0 inches without a canopy. With a canopy the height is 37.5 inches. The work area is cramped and the machine is more difficult and dangerous to operate than if the coal height for use of a canopy were 46 inches.

3. The petitioner's shuttle car height is 33.5 inches without a canopy. With a

canopy the height is 40.5 inches. The operator of the shuttle car with a canopy is forced to peer from under the side of the canopy for visibility. This places the operator in an unsafe working condition, the petitioner alleges.

4. The petitioner requests modification of 30 CFR 75.1910 to permit the minimum height for canopy use be raised to 46 inches.

5. The petitioner states that adherence to the standard diminishes the safety of the operators.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 15, 1981. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-38968 Filed 12-15-80; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefit Programs Office

[Prohibited Transaction Exemption 80-96; Exemption Application No. D-1810]

Exemption From the Prohibitions for a Certain Transaction Involving the Barnett Bank of Westchester Superseded Profit Sharing Plan, Located in Jacksonville, Florida

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the cash sale of a certain Government National Mortgage Association Single Family Pool by the Barnett Bank of Westchester Superseded Profit Sharing Plan (the Plan) to the Barnett Banks of Florida, Inc. (the Employer), a party in interest with respect to the Plan.

TAX CONSEQUENCES OF TRANSACTION: The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 17, 1980, notice was published in the **Federal Register** (45 FR 69063) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the trustee of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the notice to interested persons requirement as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan to the Employer of a Government National Mortgage Association Single Family Mortgage Pool 8%, dated February 15, 1972 due January 15, 2002 (the Mortgage Pool), provided the purchase price shall be the greater of the carrying value (defined as the original purchase price less all principal payments previously received) or the fair market value of the Mortgage Pool at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 10th day of December 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-38893 Filed 12-15-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-97; Exemption Application No. D-1900]

Exemption From the Prohibitions for Certain Transactions Involving the Pacific Scientific Co.'s Employee Retirement Plan Located in Anaheim, California

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) The sale to the Pacific Scientific Company Employee Retirement Plan (the Plan) of an improved parcel of real property (the Property) by the Pacific Scientific Company (the Employer), a party in interest with respect to the Plan; (2) a lease (the Lease) of the Property by the Plan to the Employer; (3) an assumption by the Plan of the Employer's obligations pursuant to a note and deed of trust; and (4) a guarantee by the Employer to the Plan with regard to the Plan's future disposition of the Property.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 17, 1980, notice was published in the **Federal Register** (45 FR 69068) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to all persons to comply with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The purchase of the Property by the Plan from the Employer provided that the purchase price does not exceed the fair market value of the Property at the time of sale; (2) the Lease of the Property to the Employer provided that the terms and conditions of the Lease are at least as favorable to the Plan as a lease with a third party would be; (3) an assumption by the Plan of the Employer's obligations pursuant to a note and deed of trust; and (4) a guarantee by the Employer to the Plan with regard to the Plan's disposition of the Property upon the default by the Employer on any of its obligations under the Lease.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 10th day of December 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-38894 Filed 12-15-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-95; Exemption Application No. D-1733]

Exemption From the Prohibitions for Certain Transactions Involving R. Perry Realty, Inc. Profit Sharing Plan Located in Farmington Hills, Michigan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of two parcels of improved real property (the Properties) by R. Perry Realty, Inc. Profit Sharing Plan (the Plan) to Richard Perry, a disqualified person with respect to the Plan. Since Mr. Richard Perry is the sole stockholder and employee of R. Perry Realty, Inc. (the Employer) and the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510. 3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Internal Revenue Code of 1954 (the Code.)

FOR FURTHER INFORMATION CONTACT: Mr. Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 30, 1980, notice was published in the **Federal Register** (45 FR 64764) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the Plan trustee. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. Since Richard Perry is the only participant in the Plan and the sole stockholder of the Employer, it was determined that there was no need to distribute the notice of pendency to interested persons. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affilitate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc 75-26, 1975-1 C.B. 722 and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan of the Properties to Mr. Richard Perry for $185,500 provided that amount is not less than the fair market value of the Properties at the date of sale, less the outstanding mortgage balances owed with respect to the Properties plus $2,539 for losses incurred by the Plan.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 10th day of December 1980

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-38895 Filed 12-15-80; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-821 and 1081]

Proposed Exemption for Certain Transactions Involving the Transamerica Life Insurance and Annuity Co., Los Angeles, Calif.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would, provided certain conditions are met, exempt the reinsurance by the Transamerica Life Insurance and Annuity Company (Transamerica Life) of life insurance and annuity contracts, including those held in separate accounts, which were sold to employee pension benefit plans by Occidental Life Insurance Company of California (Occidental). The proposed exemption, if granted, would affect participants and beneficiaries of such employee pension benefit plans, Transamerica Life, Occidental, and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before January 30, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200

Constitution Avenue NW., Washington, D.C. 20216, Attention: Application Nos. D–821 and 1081. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D..C 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406 (a) and (b) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code. The proposed exemption was requested in applications filed on behalf of Occidental, Transamerica Life, and Transamerica Insurance Corporation of California (Transinscorp), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The applications were filed with both the Department and the Internal revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The applications contain representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the applications on file with the Department for the complete representations of the applicants.

1. Occidental, transinscorp and Transamerica Life are California insurance corporations. Occidental and Transamerica Life are wholly owned subsidiaries of Transincorp, which in turn, is a wholly owned subsidiary of Transamerica Corporation, a widely held Delaware corporation.

2. Occidental is a major life insurance company providing a large number of insurance services. At the end of 1976, it had over $43 billion of insurance in force and over $2.5 billion in total assets. Occidental received in 1976 total premiums and annuity considerations from all lines of insurance of $815 million.

3. Since its creation in 1966, Transamerica Life has concentrated primarily on the issuance of term life insurance policies. Its total insurance premiums and annuity considerations for 1979 from all lines of insurance was $88 million. Its total insurance in force as of the end of 1979 was over $3 billion, and the value of its assets exceeded $947 million.

4. Occidental has issued a number of life and health insurance contracts providing life insurance, income protection, accidental death and dismemberment, long-term disability, basic medical, major medical, dental, prescription drugs and X-ray coverage to plans covering employees of members of the Transamerica controlled group. These welfare plan benefits are not the subject of this proposed exemption. In addition, Occidental has also issued a number of group annuity contracts to pension plans covering employees of members of the Transamerica controlled group. Occidental proposes to reinsure the benefits under these pension plans with Transamerica Life for the reasons set forth below.

5. Occidental also holds funds in separate accounts under contracts issued to qualified employee pension benefit plans or the employers maintaining such plans. Many of these contracts provide a dual funding media whereby they have both a fixed dollar fund and an equity fund. Some of the separate account funds are held in pooled accounts, and Occidental also maintains funds in separate accounts established separately for a single customer. Although a few contracts covering employees of members of the Transamerica group involve funds held in separate accounts, most of these separate account funds involve contracts sold to unrelated pension plans. The reinsurance by Transamerica Life of the insurance contracts held in separate accounts by Occidental may constitute a prohibited transaction. Occidental has determined that it may be able to better serve the interest of pension plans that purchase insurance and annuity contracts from Occidental if Occidental transfers its pension business to a pension specialty company. Occidental has therefore decided to reinsure its pension business with Transamerica Life and transfer to it much of the Occidental staff and equipment that is responsible for the pension operation. The consideration that Occidental will transfer to have Transamerica Life reinsure the separate account risks under the contracts consists of the assets held in separate accounts by Occidental under those contracts. Occidental will also pay Transamerica Life an amount equal to the continuing payments Occidental charges the contract-holders under the reinsured contracts. Transamerica Life is required to pay Occidental an expense allowance and experience refunds, if any, and must also reimburse Occidental for all disbursements made pursuant to the terms of the reinsured contracts.

6. Occidental has entered into an agreement with Transamerica Life to reinsure the risks arising under all contracts issued by Occidental to qualified pension plans. The reinsurance agreement separates the liabilities of contracts to be reinsured into three categories:

(1) Liabilities with respect to funds held in separate accounts;

(2) Liabilities under the contracts covering employees of members of the Transamerica controlled group; and

(3) Liabilities under all other contracts Occidental has issued to qualified pension plans (i.e., to employers unrelated to either Occidental or the other members of the Transamerica controlled group). The third category of liabilities was reinsured by Transamerica Life on January 5, 1977, and constituted about five-sevenths of the total amount of liabilities covered by the agreement. Transamerica Life has not yet begun to reinsure the first two categories of liabilities, as this is the reinsurance which is the subject of the exemption applications.

7. The direct sale of life insurance, health insurance and annuity contracts by Occidental to employee benefit plans covering employees of the Transamerica controlled group is within the scope of Prohibited Transaction Exemption 79–41 (PTE 79–41, 44 FR 46365, August 7, 1979). However, PTE 79–41 specifically excluded from its coverage the various types of reinsurance transactions for which the Department had received applications.

8. Transamerica Life will become liable under the reinsurance agreement to indemnify Occidental for claims and expenses incurred under the reinsured contracts, but Transamerica Life does not become liable to the insureds under the contracts. Occidental will remain liable to all insureds under the contracts which are the subject of the reinsurance, which liability will not, in any way, be affected by the reinsurance. The reinsurance contract provides specifically that it is an agreement solely between Occidental and Transamerica Life, and it creates no legal relationship between

Transamerica Life and any of the insureds under the contracts with Occidental.

9. The applicants represent that the reinsurance transactions involved will meet all of the conditions of PTE 79–41 covering direct insurance transactions:

(a) With respect to the plans established or maintained by Transamerica Corporation and its affiliated corporations, Occidental and Transamerica Life are parties in interest by reason of a stock affiliation with the employers maintaining the plans that is described in section 3(14) (E) or (G) of the Act.

(b) The plans established or maintained by Transamerica Corporation and its affiliated corporations pay no more than adequate consideration for the insurance or annuity contracts issued by Occidental.

(c) The plans established or maintained by Transamerica Corporation and its affiliated corporations pay no commissions with respect to a purchase of the insurance or annuity contracts from Occidental or the reinsurance with Transamerica Life.

(d) Occidental and Transamerica Life are licensed to sell insurance in 49 States and the District of Columbia.

(e) Occidental obtained a certificate of authority from the Insurance Commissioner of the State of California on August 14, 1906. Transamerica Life obtained a certificate of authority from the Insurance Commissioner of the State of California on November 2, 1966. Such certificates are automatically renewed each year by the California Insurance Department and continue to be effective unless rescinded. Neither company's certificate has ever been rescinded.

(f) Occidental underwent a financial examination by the Insurance Commissioner of the State of California as of December 31, 1976. Transamerica Life underwent a financial examination by the Insurance Commissioner of the State of California as of December 31, 1976. The reinsurance contract has been examined and approved by the Insurance Commissioner of the State of California.

(g) Occidental and Transamerica Life have undergone in the past, and will continue to undergo in the future, and annual examination by an independent certified public accountant.

(h) The gross premiums and annuity considerations received in 1979 by Occidental and Transamerica Life for life and health insurance or annuity contracts for all employee benefit plans and their employers with respect to which Occidental and Transamerica Life are parties in interest by reason of Act section 3(14) (E) or (G) do not exceed 50% of the gross premiums and annuity considerations received for all lines of insurance by Occidental and Transamerica Life in 1979. For 1979, such premiums and annuity considerations amounted to approximately 3.6% of Occidental's gross premiums and annuity considerations received. For 1979, such premiums and annuity considerations amounted to less than .1% of Transamerica Life's gross premiums and annuity considerations received. The applicants represent that for the future neither Occidental nor Transamerica Life will derive more than a total of 50% of such company's respective gross premiums and annuity considerations (including reinsurance contracts) from transactions involving insurance contracts and plans, and their employers, with respect to which such company is a party in interest.

For purposes of this representation, the term "gross premiums and annuity considerations received" means the total of premiums, annuity considerations and deposit funds received, reduced in both the numerator and denominator of the fraction by experience refunds paid or credited in the taxable year by the insurer. Also, all premiums and annuity considerations written by the insurance company that makes the sale for plans which it alone maintains are excluded from both the numerator and the denominator.

10. In summary, the applicants represent that the subject reinsurance transactions meet the statutory criteria of section 408(a) of the Act because: (1) The insured employee pension benefit plans pay no more than adequate consideration for the insurance and annuity contracts; (2) the reinsurance of the contracts by Transamerica Life provides the plans' participants with the protection provided by the assets of two separate insurance companies; (3) the Board of Directors of Transamerica Corporation by corporate resolution has determined that the transactions involving the issuance of the insurance and annuity contracts to such plans are in the best interests of the plans' participants and beneficiaries and protective of their rights; and (4) the protections provided to the plans and their participants by PTE 79–41 will be met under the subject reinsurance transactions.

Notice to Interested Persons

Within 10 days after publication of this proposed exemption, notice of the proposed exemption will be posted on the employee bulletin boards of Transamerica Corporation and each corporation affiliated with Transamerica Corporation which is an employer with respect to an employee pension benefit plan that is the subject of the proposed exemption. The notice will contain a copy of the proposed exemption and will inform the reader of the pendency of the exemption and the right to comment and request a hearing on the exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for

public inspection with the applications for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the applications, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406 (a) and (b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (F) of the Code shall not apply to the reinsurance of risks by Transamerica Life, of Life insurance and annuity contracts sold by Occidental to employee pension benefit plans with respect to which Transamerica Life is a party in interest by reason of section 3(14) (E) Or (G) of the Act, and the resinsurance by Transamerica Life of life insurance and annuity contracts sold by Occidential to employee pension benefit plans where the liabilities under the contracts are held by Occidential in separate accounts, provided the following conditions are met: (1) The amount paid to Occidental for each of the aforementioned contracts is no greater than fair market value; and (2) regarding the funds which are held by Occidental in separate accounts under contracts which were and are to be issued to pension plans unrelated to the Transamerica controlled group, the transfer of the assets held in such an account and the reinsurance of a contract relating to such an account by Transamerica Life shall not be entered into until Occidental has received a statement in writing from a plan trustee or named fiduciary unrelated to the Transamerica controlled group that such trustee or fiduciary has determined that the transaction is appropriate for the plan and is in the best interests of the plan's participants and beneficiaries.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 10th day of December, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services, Administration, U.S. Department of Labor.

[FR Doc. 80-38896 Filed 12-15-80; 8:45 am]

BILLING CODE 4510-29-M

LIBRARY OF CONGRESS

Copyright Office

[Docket LPR-80-10]

Manufacturing Clause Study; Hearing

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of public hearing.

SUMMARY: At the request of Congress, the Copyright Office is undertaking a study of the possible economic impact of the elimination of the so-called "manufacturing clause" from the United States Copyright law as provided by section 601 of Title 17 of the United States Code. The "manufacturing clause" is scheduled to be eliminated from the law on July 1, 1982. The Copyright Office must prepare its final findings and recommendations for the Congress to be filed on or about July 1, 1981.

DATES: The hearing will be held on January 13, 1981 at the James Madison building of the Library of Congress, First and Independence Avenue, SE., Washington, D.C., in the Assembly Room, on the sixth floor, beginning at 9:30 a.m.

Anyone desiring to testify should submit a written request to present testimony by January 5, 1981 to the address set forth below. To assist the Copyright Office in scheduling witnesses we urge the public to scrupulously observe the date for requesting time to testify, even if written statements are submitted later. Ten copies of written statements must be received by the Copyright Office by 4:00 p.m. on January 9, 1981.

ADDRESSES: Written requests to present testimony and ten copies of written statements or of supplementary statements should be submitted as follows:

If sent by mail: Office of the Register, U.S. Copyright Office, Library of Congress, Department D.S., Washington, D.C. 20540.

If delivered by hand, the copies should be brought to: Office of the Register, James Madison Building, Room 405, First and Independence Ave. SE., Washington, D.C.

All requests to testify should clearly identify the individual or group desiring to testify and the amount of time desired. The Copyright Office will try to contact all witnesses to confirm the time of their appearances.

FOR FURTHER INFORMATION CONTACT: Anthony P. Harrison, Assistant Register of Copyrights, Copyright Office, Library of Congress, Department D.S., Washington, D.C. 20540. Telephone: (202) 287-8350.

SUPPLEMENTAL INFORMATION:

1. *Background and purpose of the Study.*—Under the copyright law now in effect, certain nondramatic literary materials in the English language must be manufactured either in the United States or in Canada in order for the work to enjoy the full remedies provided by the copyright law in an action for infringement of the rights of reproduction or distribution. The "manufacturing clause" now applies only to works by American citizens or domiciliaries, and under special circumstances, even such works may be exempt from the manufacturing clause.

In 1976, the House Committee on the Judiciary, after evaluating the arguments in favor of and against retention of any "manufacturing clause" in the copyright law, concluded that "there is no justification on principle for a manufacturing requirement in the Copyright statute . . ." H. Rep. No. 1476, 94th Cong., 2d Sess., (1976) at 166. The Committee amended section 601 of the then pending copyright revision bill so as to repeal the manufacturing requirement on July 1, 1981. Following a conference with the Senate, the House amendment was accepted, but the date for termination of the manufacturing requirement was extended to July 1, 1982.

Senator Hugh Scott, in the course of Senate debate on the copyright revision bill in 1976, stated that the extension of the phaseout date for the manufacturing requirement from July 1, 1981 to July 1, 1982,

> Will enable Congress to take a close look at the dangers faced by the printing industry in this country.
>
> To insure that Congress has adequate and accurate information on which to base its reassessment before the phaseout takes place, Senator McClellan and I have written to the Register of Copyrights requesting that such a study be timely undertaken." 122 Cong. Rec. S17252, 94th Cong., 2d Sess. (1976).

The subject matter of the study will consist of addressing the issues relating to the "economic impact on United States book manufacturing industry; United States labor rates compared with those abroad; industry health; impact on

jobs in U.S. and U.S. industry; advances in printing technology that are relevant; progress on implementation of the Toronto Agreement of 1968;[1] ramifications of granting copyright on book manufacturing industry; and other relevant factors that . . . [the Copyright Office] should deem appropriate." 122 Cong. Rec. S17253, 94th Cong., 2d. Sess. (1976).

As part of the study development process, the Copyright Office will conduct a hearing on January 13, 1981 in order to give all interested parties an opportunity to express their current views on the scheduled phaseout of the "manufacturing clause" of the 1976 law and to present any economic data or other information that would assist the Copyright Office in preparing its report.

2. *Specific Questions.*—The Copyright Office is interested in receiving comments and testimony about any issues relevant to the phaseout of section 601 which copyright owners, publishers, printers, and any other person whose informed opinion may aid this Office in preparing the study. Of particular interest are answers to the following questions:

1. If the "manufacturing clause" were to be phased out, which types of non-dramatic English-language works would most likely be susceptible to be printed outside the United States?

a. What factors make these works susceptible for foreign printing?

b. What percentage are these works of the overall total of works currently printed in the United States?

2. If the "manufacturing clause" were to be phased out, which type(s) of non-dramatic English-language works would be least likely to be susceptible to be printed outside the United States?

a. What factors make these works not susceptible for foreign printing?

b. What percentage are these works of the overall total of works currently printed in the United States?

3. In general, when selecting a printer, which of the following factors are considered the most important and why?

The factors to be considered are paper quality and availability; craftsmanship; ready accessibility; distribution capabilities; and timeliness of delivery. If there are other factors that should be considered, please add them to this list and discuss their importance.

4. How do printers abroad (Europe, the Far East, Australia, Canada and Mexico) compare to United States printers in terms of the factors of paper quality and availability; craftsmanship; ready accessibility; distribution capabilities; and timeliness of delivery? If there are other factors that should be considered, please add them to this list and discuss their importance.

5. Is the printing industry in the United States labor intensive or capital intensive? What are the future trends?

6. Are the printing industries abroad (Europe, the Far East, Australia, Canada and Mexico) labor intensive or capital intensive? What are the future trends in each of the printing industries?

7. How do wage rates for printing industry employees in the United States compare with the rates of similar employees in the printing industries abroad (Europe, the Far East, Australia, Canada and Mexico)?

8. What technological changes are likely to occur in the production of books and periodicals during the 1980's and how will the changes, if any, affect the types of labor skills and size of the labor force utilized by the industry today in the composition, printing and binding process?

9. What developments have occurred since 1976 which Congress should consider in evaluating whether the manufacturing clause should expire?

Dated: December 5, 1980.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 80-38945 Filed 12-15-80; 8:45 am]

BILLING CODE 1410-03-M

[1] Congress exempted copies manufactured in Canada from the "manufacturing clause" of the Copyright Act because it found that "usage standards in Canada are comparable to those in the United States . . ." H. REP. No. 1476, 94th Cong., 2d Sess. (1976). The Canadian exemption was made possible in part also by a memorandum agreement known as the "Agreement of Toronto," signed by representatives of some, but not all American and Canadian business and labor printing organizations in February 1968. American representatives agreed that they would seek an exemption for Canadian-manufactured copies from the "manufacturing clause" of the United States copyright law. The Canadian representatives agreed that they would "urge the Canadian Government to accept the Florence Agreement as soon as exemption for Canada has been adopted by the U.S. Congress." ["Agreement of Toronto" as contained in Chapter XIV of the "Second Supplementary Report of the Register of Copyrights" (1975) at page 25].

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report: Twenty-First Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission has published and issued the twenty-first periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 3, No. 2). The release date is December 10, 1980.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the **Federal Register** (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The twenty-first report to Congress is for the second quarter of 1980. The report identifies the occurrences or events that the Commission determined were significant and the remedial action that was undertaken. The report indicates that the following incidents or events were determined by the Commission to be significant and reportable:

(a) There were two abnormal occurrences at the nucler power plants licensed to operate. One involved the loss of decay heat removal capability. The other involved the failure of control rods to insert fully during a scram. The first incident was determined reportable during report preparation and therefore has not previously been noticed in the **Federal Register.** Using the abnormal occurrence criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950), the incident satisfies Example I.D.3 of Appendix A: Serious deficiency in management or procedural controls in major areas.

(b) There were no abnormal occurrences at the fuel cycle facilities (other than nuclear power plants).

(c) There were no abnormal occurrences at other licensee facilities.

(d) There were no abnormal occurrences reported by the Agreement States.

The twenty-first report to the Congress also contains updating information on some abnormal occurrences reported in previous reports.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C. or at any of the 130 local Public Document Room throughout the country. The report, designated NUREG-0090, Vol. 3, No. 2, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, or from the GPO Sales Program, Division of Technical Information and Document

Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, on or about December 24, 1980.

Dated at Washington, D.C. this 9th day of December 190.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-38988 Filed 12-15-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Babcock and Wilcox Water Reactors; Cancellation

The ACRS Subcommittee meeting on Babcock and Wilcox Water Reactors scheduled for December 18, 1980 has been cancelled. Notice of this meeting was published in the **Federal Register** on Thursday, December 4, 1980 (45 FR 80382).

Dated: December 11, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-38981 Filed 12-15-80; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export/Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W. Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requester or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported.

Dated this day December 8, 1980, at Bethesda, Md.

For the Nuclear Regulatory Commission.

James R. Shea,

Director, Office of International Programs.

Name of applicant, date of application, date received, application No.	Material type	Material in kilograms		End use	County of destination
		Total element	Total isotope		
Mitsubishi International, Oct. 21, 1980, Nov. 3, 1980, XSNMO1762	3.33 pct enriched uranium	15,048	502	Reload fuel for Ikata Unit No. 1	Japan.
Transnuclear, Nov. 4, 1980, XSNMO1763	3.35 pct enriched uranium	19,413.000	650.034	Two reloads for Obrigheim (KWO)	West Germany.
Ediow International, Oct. 29, 1980, Nov. 12, 1980, XSNMO1764	93.5 pct enriched uranium	26.00	24.31	Fuel for HFR Grenoble Research Reactor.	France.
Transnuclear, Nov. 12, 1980, XSNMO1765	3.55 pct enriched uranium	20,894.340	741.750	Multiple reloads for Beznau II	Switzerland.
Mitsubishi International, Nov. 10, 1980, Nov. 20, 1980, XSNMO1767	3.15 pct enriched uranium	8,116	256	Reload fuel for Genkai Unit I	Japan.
Transnuclear, Nov. 5, 1980, Nov. 20, 1980, XSNMO1664 (02)	Natural uranium	[1]16,876		Increase quantity to be exported "Offset Agreement".	West Germany.
Westinghouse, Nov. 11, 1980, Nov. 14, 1980, XR138	Two PWR Reactors—KNU 11 and 12.				South Korea.
General Electric, Nov. 7, 1980, Nov. 10, 1980, ISNM80015	3.8 pct enriched uranium	2,000	76	For fabrication of fuel for export to Caorso.	From Italy.
Sydkraft Aktiebolag, Nov. 11, 1980, Nov. 19, 1980, ISNM80016	Natural uranium	138,991		For conversion from U_3O_8 to UF_6 and then re-exported for use in Barseback Reactor.	From Sweden.
Nuclear Transport & Storage, Nov. 17, 1980, Nov. 21, 1980, IU80018	Natural uranium	[2]50,000		Depleted uranium metal castings.	From Canada.

[1]Additional. [2]Per year.

[Byproduct Material License No. 12-11286-01; EA-80-58]

Atomic Disposal Co., Inc., Order Imposing Civil Monetary Penalties

I

Atomic Disposal Company, Inc., Post Office Box 35 Tinley Park, Illinois (the "licensee"), is the holder of Byproduct Material License No. 12-11286-01 (the "license"), issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to collect and temporarily store waste radioactive material. The license was issued initially on December 22, 1965, and has an expiration date of December 31, 1983.

II

An inspection of a shipment of radioactive waste from the licensee's facility in Tinley Park, Illinois, to the Nuclear Engineering Company, Richland, Washington disposal site was conducted on June 5, 1980. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the requirements of the NRC's "Packaging of Radioactive Material for Transport. . . ," Part 71, Title 10, Code of Federal Regulations. A written Notice of Violation was served upon the licensee by letter dated September 17, 1980, specifying the items of noncompliance in accordance with 10 CFR 2.201. A Notice of Proposed Imposition of Civil Penalties dated September 17, 1980, was served concurrently upon the licensee in accordance with Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, incorporating by reference the Notice of Violation which stated the nature of the items of noncompliance and the provisions of the NRC requirements with which the licensee was in noncompliance.

An answer to the Notice of Violation and the Notice of Proposed Imposition of Civil Penalties, dated October 9, 1980, was received from the licensee.

III

Upon consideration of the answer received and the statements of fact, explanation, and argument for deferral, compromise, mitigation, or cancellation contained therein, as set forth in the Attachment to this Order, the Director of the Office of Inspection and Enforcement has determined that the

penalty proposed for the items of noncompliance designated in the Notice of Violation should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay civil penalties in the amount of Two Thousand Dollars within twenty-five days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may, within twenty-five days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Secretary to the Commission, U.S.N.R.C., Washington, DC. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within twenty-five days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) whether the licensee was in noncompliance with the Commission's requirements as set forth in the Notice of Violation referenced in Sections II and III above; and,

(b) whether, on the basis of such items of noncompliance the Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 4th day of December 1980.

R. C. DeYoung,

Deputy Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusions

For the items of noncompliance and associated civil penalties identified in the Notice of Violation (dated September 17, 1980), the original items of noncompliance are restated and the Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's response to the items (dated October 9, 1980) is presented.

Item 1

Statement of Noncompliance

10 CFR 71.5 prohibits delivery of licensed materials to a carrier for transport unless the licensee complies with applicable regulations of the Department of Transportation in 49 CFR Parts 170–189.

49 CFR 173.392(c)(6) requires that packaged shipments of low specific activity radioactive material in transport vehicles assigned for sole use of that consignor must be braced so as to prevent leakage or shift of lading under conditions normally incident to transportation.

Contrary to the above, on June 5, 1980, the shipment of low specific activity radioactive material that arrived at the Richland, Washington burial site was found not to have been braced in the transport vehicle so as to prevent the shift of lading. This caused a drum to fall onto its side when the back door of the truck was opened.

This is a Veverity Level II Violation. (Civil Penalty—$1,000.00)

Licensee's Response

In the response the licensee stated, "Some time ago, during a combined DOT and NRC inspection of our facility (carried out by respective members of each organization), we quizzed the U.S. DOT inspector about the blocking of full trailerloads of drums. He informed us that it a trailer was fully loaded—as this one was, the walls and doors acted as bracing and prevented the shifting and possible leaking of lading under conditions normally incident to transportation. (We added blocking on our own to be safe). Based on this information, and as this was a full load and no problems resulted in the *transportation* of the material, we feel that this Notice of Violation and Civil Penalty is totally unjustified."

Evaluations of Licensee's Response

After discussion with DOT we have been unable to confirm the licensee's comment regarding statements allegedly made by a DOT inspector. Nevertheless, 49 CFR 173.392(c)(6) states, in part, that packaged shipments must be braced so as to prevent shift of lading under conditions normally incident to transportation. In the response, the licensee appears to imply that the transport of the package shipment was carried out in a safe manner, but that the drum fell onto its side when the back door of the truck was opened. NRC considers that the loading, transport and preparation for unloading must be carried out in such a manner that damage to the cargo will not result when the back doors of a trailer are opened.

The fact that the drum fell over when the doors were opened is evidence that the bracing was inadequate.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action.

Item 2

Statement of Noncompliance

10 CFR 71.5 prohibits delivery of licensed materials to a carrier for transport unless the licensee complies with applicable regulations of the Department of Transportation in 49 CFR Parts 170–189.

49 CFR 173.392(c)(2) requires that packaged shipments of low specific activity radioactive material transported as exclusive use must be packaged in strong, tight packages.

Contrary to the above, on June 5, 1980, at the Richland, Washington burial site a drum of low specific activity radioactive material in a sole use vehicle was observed not to be a tight package in that leakage of liquid through the top ring seal resulted when it fell onto its side.

This is a Severity Level II Violation. (Civil Penalty—$1,000.00)

Licensee's Response

In the response the licensee stated, "With reference to the leaking of liquid from the container when it fell over, we can only reiterate what we have stated repeatedly; when a container of vials packed in *any* absorbent is subjected to constant road vibration for 2,000 miles, the absorbent will separate and migrate to the bottom portion of the drum. The vials at the top will break if subjected to a substantial shock, as a fall, and as toluene rapidly dissolves a plastic bag shortly after packaging, it is virtually useless as an inner containment vessel. When free-flowing liquid comes into contact with a lid of overturned drum, as would have happened in this case, unless the lid had been seated perfect and the rubber gasket is entirely intact and not twisted in any way, a very thin liquid as toluene will leak out. Please keep in mind that although we tighten every lid ring with an electric impact wrench, the road vibration experienced on a 2,000 mile journey can cause bolts to loosen and the lids to become unseated." In addition, the licensee stated, in part, that every container is now inspected by the Operations Manager; loads are blocked with 2x4's nailed to the floor and walls of the trailer; and a locking device is being developed to prevent bolts from vibrating loose. In conclusion, the licensee stated that their action has already prevented additional problems of this type from developing and they feel no problems of this type will be evidenced in the future.

Evaluation of Licensee's Response

In their response, the licensee states that when free-flowing liquid comes into contact with a lid of an overturned drum, unless the lid had been seated perfect and the rubber gasket is entirely intact and not twisted in any way, a very thin liquid such as toluene will leak out. A licensee who transports material which is difficult to package carries the obligation to take special care to assure the package integrity. It is evident that this was not done in this case. The licensee further stated that their actions have already prevented additional problems from developing, and they feel no problems of this type will be evidenced in the future. If the licensee had taken such action prior to the June incident, it would probably not have occurred. It is recognized that the licensee has taken corrective action. However, such action is always required and is not generally a basis for mitigation.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action.

Item 3

Statement of Noncompliance

10 CFR 71.5 prohibits delivery of licensed materials to a carrier for transport unless the licensee complies with applicable regulations of the Department of Transportation in 49 CFR Parts 170–189

49 CFR 173.392(c)(2) requires that packaged shipments of low specific activity radioactive material transported as exclusive use must be packaged in strong, tight packages.

Contrary to the above, on June 5, 1980, at the Richland, Washington burial site, a drum of low specific radioactive material was observed not to be a tight package in that a one half inch penetrating gash was observed on the side of the drum.

This is a Severity Level III infraction. (Civil Penalty—$0)

Licensee's Response

The licensee made no specific response to this item of noncompliance.

Conclusion

The item as stated is an item of noncompliance. There is no basis for modification of this enforcement action.

[FR Doc. 80-38982 Filed 12-15-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-254]

Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co. Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License DPR-29 issued to Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operation of the Quad Cities Nuclear Power Station, Unit No. 1, located in Rock Island County, Illinois. The amendment becomes effective as of the date of issuance.

This amendment (1) authorizes changes to the plant Technical Specifications by revising the Minimum Critical Power Ratio Safety Limit to apply to new fuel types, (2) modifies the Rod Drop Accident Design Limit from 1.3 percent Δ maximum rod worth to 280 calories/gram peak fuel enthalpy rise, (3) approves the use of new Maximum Average Planar Linear Heat Generation Rate curves reflecting 8×8 retrofit fuel reload characteristics and extension of burnup to 40,000 megawatt days per short ton, (4) replaces the Limiting Total Peaking Factor with the Maximum Fraction of Limiting Power Density for adjustment of the APRM flux scram and rod block trip settings, and (5) changes the Reactor Protection System Delay Time from 100 to 50 milliseconds for consistency with the licensing analysis. All other changes correct typographical errors and clarify the basis.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement, negative declaration, and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated September 2, 1980, as supplemented October 3, 1980, (2) Amendment No. 61 to License No. DPR-29, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Moline Public Library, 504—17th Street, Moline, Illinois, for Quad Cities Unit No. 1. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of December, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-38983 Filed 12-15-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Connecticut Light and Power Co. et al.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Comission) has issued Amendment No. 69 to Provisional Operating License No. DPR-21, issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company (the licensees), which revised the Technical specifications for operation of the Millstone Nuclear Power Station, Unit No. 1 (the facility) located in Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to allow the count rate on the Source Range Monitor (SRM) channels to go below three (3) counts per second under certain circumstances.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this action was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 4, 1980, and supplement thereto dated September 24, 1980, (2) Amendment No. 69 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of October 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 80-38984 Filed 12-15-80; 8:45]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License No. DPR-6, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Nuclear Power Plant (the facility) located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment authorizes a change in the low reactor water level trip setpoint.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 25, 1980, (2) Amendment No. 34 to Facility Operating License No. DPR-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of September, 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 80-38985 Filed 12-15-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co., et al.; Notice of Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Provisional Operating License No. DPR-21 to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company (the licensees), which amended the license for operation of the Millstone Nuclear Power Station, Unit No. 1, located in the Town of Waterford, Connecticut. This amendment is effective as of its date of issuance.

The amendment revises License Condition 3.F (Fire Protection) in conjunction with the issuance of a supplement to the Fire Protection Safety Evaulation Report dated September 26, 1978 (License Amendment No. 53).

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environment impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the NRC's Fire Protection Safety Evaluation, dated September 26, 1978 (License Amendment No. 53), (2) Amendment No. 70 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of November, 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 80-38986 Filed 12-15-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260, and 50-296]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 63 to Facility Operating License No. DPR-33, Amendment No. 59 to Facility Operating License No. DPR-52, and Amendment No. 35 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2, and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments change the Technical Specifications to resolve ambiguities which exist in Section 3.9 on the auxiliary electrical system.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 6, 1980, (2) Amendment No. 63 to License No. DPR-33, Amendment No. 59 to License No. DPR-52, and Amendment No. 35 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained

upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of December, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-38987 Filed 12-15-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21827; 70-6515]

Central and South West Corp., et al.; Proposed Extension of System Money Pool Arrangement, Proposed Establishment of New Short-Term Borrowing Limitations and Request for Exception From Competitive Bidding

December 5, 1980.

In the Matter of CENTRAL AND SOUTH WEST CORPORATION, 2700 One Main Place, Dallas, Texas 75250; CENTRAL POWER AND LIGHT COMPANY, P.O. Box 2121, Corpus Christi, Texas 78403; SOUTHWESTERN ELECTRIC POWER COMPANY, P.O. Box 21106, Shreveport, Louisiana 71156; PUBLIC SERVICE COMPANY OF OKLAHOMA, P.O. Box 201, Tulsa, Oklahoma 74102; WEST TEXAS UTILITIES COMPANY, P.O. Box 841, Abilene, Texas 79604; CENTRAL AND SOUTH WEST SERVICES, INC., 2700 One Main Place, Dallas, Texas 75250.

Notice is Hereby Given that Central and South West Corporation ("CSW"), a registered holding company, and five of its subsidiary companies, Central Power and Light Company ("CPL"), Southwestern Electric Power Company ("SWEPCO"), West Texas Utilities Company ("WTU"), Public Service Company of Oklahoma ("PSO") and Central and South West Services, Inc., ("CSWS") have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9(a), 10, 12(b) and 12(f) thereof and Rules 43 and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

By orders dated June 30, 1978 (HCAR No. 20608) through October 22, 1980 (HCAR No. 21757), CSW and its subsidiaries (collectively the "System") were authorized to incur short-term borrowings through December 31, 1981, in a maximum aggregate amount outstanding of $250,000,000. Each company was authorized to borrow up to the maximum amounts indicated below provided that the aggregate principal amount outstanding of such borrowings for the System did not exceed $250,000,000:

CPL	$100,000,000
PSO	180,000,000
SWEPCO	75,000,000
WTU	15,000,000
CSWS	4,000,000

Applicants are seeking authorization to make short-term borrowings in an aggregate principal amount outstanding not to exceed $300,000,000 through June 30, 1982. In no case will borrowings exceed 10% (or, in the case of PSO and WTU, 20%) of the aggregate amount of the borrower's secured debt, capital stock and premiums thereon and surplus (consolidated, in the case of CSW and PSO) at the time of borrowing. Each company may borrow individually up to the maximum amounts indicated below provided that the total aggregate principal amounts outstanding of such borrowings for the system do not exceed the limit stated above:

CSW	$300,000,000
CPL	110,000,000
PSO	200,000,000
SWEPCO	80,000,000
WTU	35,000,000
CSWS	10,000,000

The borrowings would be effected either through the CSW system money pool, the sale of commercial paper notes to dealers and/or bank borrowings in the event such borrowings would produce a lower cost of money than the issue of commercial paper and to the extent that excess funds through the System money pool were inadequate to fulfill the subsidiaries requests for short-term loans. The aggregate borrowings from any one or combination of these sources would not exceed the limits stated above. At August 31, 1980, the subsidiaries had the following amounts of short-term borrowings outstanding, all in the form of open account advances from CSW:

CPL	$36,000,000
PSO	12,900,000
SWEPCO	24,000,000
CSWS	2,350,000
WTU	5,700,000

Proceeds of any short-term borrowings (other than borrowings by CSWS), would be used (1) by CPL, PSO (consolidated), SWEPCO and WTU for the interim financing of their capital programs during the period and to provide for other temporary working capital needs; (2) by CSW to loan or contribute as capital to the subsidiaries for such purposes, and (3) to repay borrowings previously incurred for such purposes. Proceeds of borrowings by CSWS will be used to provide working capital for CSWS's operations or to repay borrowings used for such purpose. The estimated capital programs for 1981 and 1982 respectively for the operating companies are as follows: CSW (consolidated) $638,000,000 and $860,000,000; CPL, $198,000,000 and $278,000,000; PSO, $185,000,000 and $254,000,000; SWEPCO, $204,000,000 and $281,000,000; and WTU, $50,000,000 and $47,000,000. None of the proceeds from such borrowings will be utilized to pay the costs of facilities ("interconnection facilities") which would be unnecessary for the operating companies to provide customer service if such operating company was not part of the CSW System. Nor will operating companies make expenditures for the construction or acquisition of any such facility before all funds authorized under the instant application-declaration have been expended. Such interconnection facilities include all facilities, construction or acquisition of which is or would be part of any proposal for synchronous interstate operation of the CSW System forming the subject of the proceeding in *Central and South West Corporation, et al.* (Admin. Proc. File No. 3-4951) which would not also be required for the continuation of dis-synchronous interstate/intrastate operation in the mode presently prevailing in the CSW System.

Short-term money operations for the CSW System are coordinated through the use of a money pool which consists of surplus funds of the operating subsidiaries, surplus funds of CSW, external borrowings by CSW from banks and from its sale of commercial paper. Loans are made to the subsidiaries from these funds in the order stated. For example, surplus funds of the operating companies must be exhausted before surplus funds in the treasury of CSW are used. Each borrowing subsidiary will borrow pro rata from each lending subsidiary and CSW (when CSW is lending) pro rata in the proportion which the total amount being loaned by that lending subsidiary (or CSW) through the money pool bears to the total amount being loaned through the money pool. No loan will be made by CSW or a subsidiary if the borrowing subsidiary could borrow more cheaply directly from banks or through the sale

of its own commercial paper, subject to further authorization by the Commission. The determination of whether a subsidiary or CSW has at any time surplus funds to lend will be made by its respective treasurer or chief financial officer on the basis of cash flow projections. No subsidiary may make a loan to CSW.

Loans to the subsidiaries through the money pool may be made pursuant to open account advances. However, any lender may require the issuance of a promissory note evidencing the transaction. Notes evidencing loans from CSW must mature within one year of issuance and be prepayable in whole or part at any time without premium or penalty. Notes for loans from subsidiaries, would mature no later than the earlier of the date the borrower could be expected to obtain funds to pay the note or the date the lender needs the excess funds for its own use. If a note matures because the lender needs the funds, either another subsidiary with excess funds will take the note through the money pool or CSW would make the loan from available corporate funds or external borrowings.

The daily interest rate on outstanding money pool loans from internal sources will be based on the weighted average daily cost to CSW for external borrowings, or if no such borrowings are outstanding, the daily rate published in *The Wall Street Journal* for General Motors Acceptance Corporation commercial paper of comparable term. The interest rate applicable to loans made from external funds borrowed by CSW would be equal to CSW's net costs for such borrowings.

In recent years CSW has customarily satisfied its short-term borrowing needs and those of its subsidiaries by the sale of commercial paper to commercial paper dealers. It is now seeking further authorization to issue commercial paper from time to time through June 30, 1982. The commercial paper would have varying maturities not to exceed nine months from the date of issuance, and would be in varying denominations of not less than $25,000,000. The commercial paper notes would be issued and sold by CSW directly to commercial paper dealers at a rate not to exceed the rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity sold by issuers to commercial paper dealers. The interest cost would not exceed the effective cost of money for unsecured prime commercial bank loans prevailing on the date of issue of such commercial paper. The purchasing dealer would reoffer such notes at a rate of ⅛ of 1% per annum or less than the rate to the issuer. The dealer would reoffer the notes to no more than 200 designated customers on a list prepared in advance and provided to this Commission. The customer list will include commercial banks, insurance companies, corporate pension funds, investment funds, foundations, colleges and universities, municipal and state benefit funds, eleemosynary institutions, finance companies and nonfinancial corporations investing surplus funds. It is expected that the commercial paper notes will be held by the customers to maturity, but should they wish to resell prior to maturity, the dealer, pursuant to an oral repurchase agreement, will repurchase such notes and reoffer them to others on said list. CSW's commercial paper would not be prepayable prior to maturity and could not be extended, although certain of the commercial paper could be paid at maturity by application of proceeds from the issuance and sale by CSW of other commercial paper or bank notes issud prior to or contemporaneously with such maturity. At final maturity, the commercial paper borrowings would be repaid by CSW from the payment of loans made to the subsidiaries and from other internal sources, or from other short-term borrowings, if authorized by the Commission. CSW also requests authorization to sell commercial paper directly to certain approved financial institutions on terms identical to the dealer-placed notes. Such direct sales would be made only to institutions on a list furnished to the Commission and would be undertaken only if the resulting cost of money was equal to or less than that available from dealer-placed commercial paper or bank borrowings.

CSW believes that the use of commercial paper would in most periods result in interest costs lower than those that would result from borrowings from commercial banks. Should borrowings from banks produce a lower cost of money than the issue of commercial paper notes, and to the extent that CSW's corporate funds and subsidiary loans of excess funds through the money pool are inadequate to fulfill the subsidaries' requests for short-term loans, CSW or the subsidiaries would borrow from banks from time to time. CSW and the subsidiaries also seek authorization to borrow from banks when the cost of such borrowing is greater than the cost of equivalent borrowings through the money pool or through commercial paper sales by CSW, if bank borrowings are necessary to maintain lines of credit with lending banks. Any such borrowings would not exceed $5,000,000 for CSW or any subsidiary and $10,000,000 collectively for the CSW System.

Bank borrowings would be evidenced by promissory notes issued to banks. These notes would be dated as of the date of the borrowing, mature within 12 months, bear interest from issuance to maturity at the prime interest rate or a multiple thereof and be prepayable, in whole or part, without penalty or premium. The cost of borrowing would be at prime, with the exception of First National Bank at Dallas, Security Pacific National Bank and Chemical Bank which would be at 103%, 104% and 107% of prime, respectively.

Compensation arrangements under the bank lines of credit are on a balance or fee basis. The maximum compensating balance is 10% of the line of credit resulting in an effective interest cost of 20.55% based on a prime commercial credit rate of 18.5%. The most onerous commitment fee arrangement provides for borrowing at 107% of the prime rate with a commitment fee of 7% of the prime rate on the line which would result in a maximum effective interest cost of 21.09% based on a prime commercial credit rate of 18.5%

The cost of compensating balances and fees paid to banks to maintain credit lines will be initially allocated to the subsidiaries on the basis of 10% to WTU and 30% each to CPL, PSO and SWEPCO. Such costs are retroactively reallocated at the end of each calendar year on the basis of relative maximum outstanding short-term borrowings of each company (including CSW when it borrows for its own corporate needs). This provides for a reallocation to each company of that proportion of the total line of credit costs equal to the percentage that its maximum short-term borrowings during the year represent of the aggregate maximum short-term borrowings of all companies on a non-coincidental basis.

In addition, CSW requests authorization to continue arrangements for borrowings of up to $10,000,000, $5,000,000, $10,000,000, and $10,000,000 from funds managed by the trust departments of Mercantile National Bank at Dallas, First City Bank of Dallas, First City National Bank of Houston, and First National Bank and Trust Company of Tulsa, Oklahoma, respectively. Trust fund borrowings would be evidenced by notes payable on demand and bearing interest at a rate equal to the highest annual interest rate on 30- to 179-day commercial paper placed by General Motors Acceptance

Corporation as reported in *The Wall Street Journal.*

CSW states that the issuance of bank notes is excepted from the competitive bidding requirements of Rule 50(b) pursuant to subparagraph(a)(2) thereof. An exception from the competitive bidding requirements of Rule 50(b) is requested for the issuance by CSW of commercial paper pursuant to subparagraph (a)(5) thereof, because it is impractical to obtain competitive bids for commercial paper and current commercial paper rates for prime issuers are published in daily financial publications.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is further stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated to be $22,300, including rating fees of $20,000.

It is requested that the reports required by rule 24 be provided on a quarterly basis.

Notice is further given that any interested person may, not later than December 29, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. 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 therof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

FR Doc. 80-38976-80 Filed 12-15-80; 8:45am]

BILLING CODE 8010-01-M

[File No. 81-646]

ENI Develpment Drilling Program 1979 B; Application and Opportunity for Hearing

December 9, 1980.

Notice is hereby given that ENI Development Drilling Program 1979 B ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchage At of 1934, as amended, (the "1934 Act") seeking a partial exemption from the reporting requirements of Sections 13 and 15(d) of that Act.

The Applicant states in part:

1. The Applicant is a limited partnership formed to acquire leases and to drill for oil and gas. Its limited partnership interests are held by 312 persons.

2. There is no trading in the limited partnership interests due to the limited number of units outstanding and the restrictions on transfer.

3. Under the terms of the limited partnership agreement, the general partner is required to furnish limited partners with certain audited and unaudited perodic reports.

4. Participation in the limited partnership is limited to a small number of investors who meet certain suitability standards.

5. Limited partners may not participate in management.

6. The business is limited to specific oil and gas activities and is not subject to material change.

The Applicant contends that for the reasons stated above no useful purpose would be served in continuning its obligation to file quarterly reports on Form 10–Q or the annual report on Form 10–K except for the "Financial Statement" section.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Offices of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than January 5, 1981, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will recive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-38977 Filed 12-15-80; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

December 5, 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:

Moran Energy Incorporated
Common Stock, $.25 Par Value (File No. 7–5788)

BankAmerica Reality Investors
Shares of Beneficial Interest, $1 Par Value (File No. 7–5789)

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 December 29, 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. 80-38978 Filed 12-15-80; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

December 5, 1980.

The above named national securities exchange has filed an application 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 common stock of:

United Inns, Inc.
Common Stock, $1 Par Value (File No. 7-5790)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 29, 1980 written data, views and arguments concerning the above-referenced application. 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 application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is 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. 80-38979 Filed 12-15-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-17367; File No. SR-NASD-80-21]

National Association of Securities Dealers, Inc.; Proposed Rule Change; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 25, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of the proposed amendments to Article III, Section 26 of the Association's Rules of Fair Practice. New material is in italics, deleted material is in brackets.

Application

(a) [Except for the provisions of paragraph (d), t] *This* [rule] *section* shall apply exclusively to the activities of members in connection with the securities of *companies registered under* [an "open-end management investment company" as defined in] the Investment Company Act of 1940; *provided however, that Section 29 of this Article shall apply, in lieu of this section, to members' activities in connection with "variable contracts" as defined therein.*

Definitions[:]

(b)(1) The terms "underwriter", *"principal underwriter", redeemable security, periodic payment plan, open-end management investment company, and unit investment trust,* [as used throughout this rule shall mean a principal underwriter as defined in the first sentence of section 2(a)(28) of] *shall have the same definitions used in* the Investment Company Act of 1940.

(2) [The term] "public offering price" [as used throughout the rule] shall mean a public offering price as set forth in the prospectus of the issuing company.

[(3) The term "business day" shall be a day on which the New York Stock Exchange is open for trading.]

[(4)](3) [The term] "Rights of Accumulation" as used in [paragraph] *subsection* (d) of this [Rule] *Section* shall mean a scale of reducing sales charges in which the sales charge applicable to the securities being purchased is based upon the aggregate quantity of securities previously purchased or acquired and then owned plus the securities being purchased. The quantity of securities owned shall be based upon:

[(a)] (*A*) the current value of such securities (measured by either net asset value or maximum offering price); or

[(b)] (*B*) Total purchases of such securities at actual offering prices; or

[(c)] (*C*) The higher of the current value or the total purchases of such securities.

The quantity of securities owned may also include redeemable securities of other registered investment companies having the same principal underwriter.

[(5)] (*4*) [The term] "any person" [as used in this rule] shall mean "any person" as defined in [paragraph] *subsection* (a), or "purchaser" as defined in [paragraph] *subsection* (b), of Rule 22d-1 under the Investment Company Act of 1940.

(*5*) "covered account", *as used in subsection (k) of this section,* shall mean (A) any other investment company or other account managed by the investment adviser of such investment company, or (B) any other account from which brokerage commissions are received or expected as a result of the request or direction of any principal underwriter of such investment company or of any affiliated person (as defined in the Investment Company Act of 1940) of such investment company or of such underwriter, or of any affiliated person of an affiliated person of such investment company.

(*6*) "brokerage commissions," as used [herein or in any Interpretation hereof by the Board of Governors] *in subsection (k) of this section,* shall not be limited to commissions on agency transactions but shall include underwriting discounts or concessions and fees paid to members in connection with tender offers.

(*7*) *"Associated person of an underwriter," as used in subsection (1) of this section, shall include an issuer for which an underwriter is the sponsor or a principal underwriter, any investment adviser to such issuer, or any affiliated person (as defined in section 2(a)(3) of the Investment Company Act of 1940) of such underwriter, issuer, or investment adviser.*

Conditions for Discounts to Dealers

(c) [No member may purchase at a discount from a public offering price any security of an open-end investment company from an underwriter of such securities unless the underwriter is also a member.] No member who is an underwriter of the securities of an [open-end] investment company shall sell any such security to any dealer or broker at any price other than a public offering price unless [(1) such dealer or broker is a member] *such sale is in conformance with Section 25 of this Article* and [(2) at the time of the sale], *if the security is issued by an open-end management company or by a unit investment trust which invests primarily in securities issued by other investment companies, unless* a sales agreement is in effect between the parties *as of the date of the transaction,* [. The sales] *which* agreement shall set forth the

concessions to be received by the dealer or broker. [and contain the provisions set forth in paragraphs (f), (g), (i) and subparagraphs (1) and (3) of paragraph (j). In addition, the sales agreement may contain among its provisions such of the other requirements of this rule as the parties may deem pertinent or appropriate, but the failure so to include any such other requirement shall not exempt any transaction from the effect of this rule or any part thereof.]

Sales Charge

(d) No member shall offer or sell the shares of any open-end investment company or any "single payment" investment plan issued by a unit investment trust registered under the Investment Company Act of 1940 if the public offering price includes a sales charge which is excessive, taking into consideration all relevant circumstances. Sales charges shall be deemed excessive if they do not conform to the following provisions:

(1) The maximum sales charge on any transaction shall not exceed 8.5% of the offering price.

(2) [(a)] (*A*) Dividend reinvestment shall be made available at net asset value per share to "any person" who requests such reinvestment at least ten days prior to the record date, subject only to the right to limit the availability of dividend reinvestment to holders of securities of a stated minimum value, not greater than $1,200 [, and provided that a reasonable service charge may be applied against each reinvestment of dividends].

[(b)] (*B*) If dividend reinvestment is not made available on terms at least as favorable as those specified in sub[section]*paragraph* (2) [(a)] (*A*), the maximum sales charge on any transaction shall not exceed 7.25% of offering price.

(3) [(a)] (*A*) Rights of Accumulation (cumulative quantity discounts) shall be made available to "any person" for a period of not less than ten (10) years from the date of first purchase in accordance with one of the alternative quantity discount schedules provided in sub[section]*paragraph* (4) [(a)] (*A*) below, as in effect on the date the right is exercised.

[(b)] (*B*) If Rights of Accumulation are not made available on terms at least as favorable as those specified in sub[section]*paragraph* (3) [(a)] (*A*), the maximum sales charge on any transaction shall not exceed:

(1) 8.0% of offering price if the provisions of sub[section]*paragraph* (2) [(a)] (*A*) are met; or

(2) 6.75% of offering price if the provisions of sub[section]*paragraph* (2) [(a)] (*A*) are not met.

(4) [(a)] (*A*) Quantity discounts shall be made available on single purchases by "any person" in accordance with one of the following two alternatives:

[(1)] (*i*) A maximum sales charge of 7.75% on purchases of $10,000 or more and a maximum sales charge of 6.25% on purchases of $25,000 or more;

[(2)] (*ii*) A maximum sales charge of 7.50% on purchases of $15,000 or more and a maximum sales charge of 6.25% on purchases of $25,000 or more.

[(b)] (*B*) If quantity discounts are not made available on terms at least as favorable as those specified in sub[section]*paragraph* (4) [(a)] (*A*), the maximum sales charge on any transaction shall not exceed:

[(1)] (*i*) 7.75% of offering price if the provisions of sub[sections]*paragraphs* (2) [(a)] (*A*) and (3) [(a)] (*A*) are met;

[(2)] (*ii*) 7.25% of offering price if the provisions of sub[section]*paragraph* (2) [(a)] (*A*) are met but the provisions of sub[section]*paragraph* (3) [(a)] (*A*) are not met;

[(3)] (*iii*) 6.50% of offering price if the provisions of sub[section]*paragraph* (3) [(a)] (*A*) are met but the provisions of sub[section]*paragraph* (2)] [(a)] (*A*) are not met;

[(4)] (*iv*) 6.25% of offering price if the provisions of sub[section]*paragraphs* (2) [(a)] (*A*) and (3) [(a)] (*A*) are not met;

[(5) Every member who is an underwriter of shares of an open-end investment company or of a "single payment" investment plan issued by a unit investment trust shall file with the Investment Companies Department of the Association, prior to implementation, the details of any changes or proposed changes in the sales charges on any such securities, if the changes or proposed changes would increase the effective sales charge on any transaction. Such filings shall be clearly identified as an "Amendment to Investment Company Sales Charges".]

[Calculation of Public Offering Price

(e) No member shall offer or sell any such security except at the effective public offering price described in the current prospectus of the issuing company and in accordance with rules and regulations of the Securities and Exchange Commission, including any interpretations thereunder.]

Selling Dividends

(e) No member shall, in recommending the purchase of investment company securities, state or imply that the purchase of such securities shortly before an ex-dividend date is advantageous to the purchaser, unless there are specific, clearly described tax or other advantages to the purchaser, and no member shall represent that distributions of long-term capital gains by an investment company are or should be viewed as part of the income yield from an investment in such company's securities.

Withhold Orders

(f) [(1)] No member shall withhold placing customer's orders for any [such] *investment company* security so as to profit himself as a result of such withholding.

Purchase for Existing Orders

[(2)] (*g*) No member shall purchase *from an underwriter* the securities of any open-end investment company [of which it is the underwriter from such company] *and no member who is an underwriter of such securities shall purchase such securities from the issuer,* except (*1*) for the purpose of covering purchase orders [already] *previously* received [and no member shall purchase such securities from the underwriter other than] *or (2)* for *its own* investment [except for the purpose of covering purchase orders already received]. *Nothing herein shall be deemed to prohibit any member from purchasing securities of any investment company specifically designed for short-term investment (e.g., money market fund).*

[Conditional Orders

(g) No member who is an underwriter shall accept a conditional order for the securities of an open-end investment company on any basis other than at a specified definite price.]

[Redemption

(h) No member shall participate as a principal underwriter in the offer or sale of any security if the issuer thereof directly or indirectly redeems or voluntarily repurchases its securities at a price higher than the net asset value upon which is based the effective public offering price.]

[Sales Agreement Provision] *Refund of Sales Charge*

[(i)] (*h*) [The sales agreement referred to in paragraph (c) shall contain a provision to the effect that i] *If* any [such] security issued by an *open-end management investment company* is repurchased by the issuer, or by the underwriter for the account of the issuer, or is tendered for redemption within seven business days after [confirmation by the underwriter of the original purchase order of the dealer or

broker for such security] *the date of the transaction*, (1) the dealer or broker shall forthwith refund to the underwriter the full concession allowed to the dealer or broker on the original sale and (2) the underwrtier shall forthwith pay to the issuer the underwriter's share of the ["load"] *sales charge* on the original sale by the underwriter and shall also pay to the issuer the refund which he receives under clause (1) when he receives it. The dealer or broker shall be notified by the underwriter of such repurchase or redemption within ten days of the date on which the certificate *or written request for redemption* is delivered to the underwriter or issuer. *If the original sale was made directly to the investor by the principal underwriter, the entire sales charge shall be paid to the issuer by the principal underwriter.*

Purchase as Principal

[(j) (1)] (*i*) No member who is a party to a sales agreement referred to in [paragraph] *subsection* (c) shall, as principal, purchase any [such] security *issued by an open-end management investment company or unit investment trust* from a record holder at a price lower than the bid price next quoted by or for the issuer.

Repurchase From Dealer

[(2)] (*j*) No member who is a[n] *principal* underwriter of [such] a security *issued by an open-end management investment company* shall repurchase such security, either as principal or as agent for the issuer, from a dealer acting as principal who is not a party to a sales agreement with [the] *a principal* underwriter, [(as described in paragraph (c)] nor from any investor, unless such dealer or investor is the record owner of the security so tendered for repurchase. No member who is a[n] *principal* underwriter shall participate in the offering or in the sale of any such security if the issuer voluntarily redeems or repurchases its securities from a dealer acting as principal who is not a party to such a sales agreement nor from any investor, unless such dealer or investor is the record owner of the security so tendered for repurchase. Nothing in this sub[paragraph]*section* shall relate to compulsory redemption of any security upon presentation to the issuer pursuant to the terms of the security.

[(3)] Nothing in this [paragraph (j)] *section* shall prevent any member, whether or not a party to a sales agreement, [referred to in paragraph (c)] from selling any such security for the account of a record owner to the underwriter or issuer at the bid price next quoted by or for the issuer and charging the investor a [fair commission] *reasonable charge* for handling the transaction, *provided that such member discloses to such record owner that direct redemption of the security can be accomplished by the record owner without incurring such charges.*

Execution of Investment Company Portfolio Transactions

(k)(1) No member shall, directly or indirectly, favor or disfavor the distribution of shares of any *particular* investment company or group of investment companies on the basis of brokerage commissions received or expected by such member from any source, including such investment company, or any covered account.

(2) No member shall, directly or indirectly, demand [,] *or* require [, or solicit an offer or promise of an amount or percentage of] brokerage commissions *or solicit a promise of such commissions* from any source [in connection with, or] as a condition to [,] the sale of shares of an investment company.

(3) No member shall, directly or indirectly, offer or promise to another member, [or request or arrange for the direction to any member, of an amount or percentage of] brokerage commissions from any source as [an inducement or reward for] *a condition to* the sale of shares of an investment company [,] *and no member shall request or arrange for the direction to any member of a specific amount or percentage of brokerage commissions conditioned upon that member's sales or promise of sales of shares of an investment company.*

(4) No member shall circulate any information regarding the amount or level of brokerage commissions received by the member from any investment company or covered account to other than management personnel who are required, in the overall management of the member's business, to have access to such information.

(5) No member shall, with respect to such member's activities as an underwriter of investment company shares, suggest, encourage, or sponsor any incentive campaign or special sales effort of another member with respect to the shares of any investment company which incentive or sales effort is, to the knowledge or understanding of such underwriter-member, to be based upon, or financed by, brokerage commissions directed or arranged by the underwriter-member.

(6) No member shall, with respect to such member's retail sales of investment company shares:

(A) provide to salesmen, branch managers or other sales personnel any incentive or additional compensation for the sale of shares of specific investment companies based on the amount of brokerage commissions received or expected from any source, including such investment companies or any covered account. Included in this prohibition are bonuses, preferred compensation lists, sales incentive campaigns or contests, or any other method of compensation which provides an incentive to sales personnel to favor or disfavor any investment company or group of investment companies based on brokerage commissions;

(B) recommend specific investment companies to sales personnel, or establish "recommended", "selected", or "preferred" lists of investment companies, regardless of the existence of any special compensation or incentives to favor or disfavor the shares of such company or companies in sales efforts, if such companies are recommended or selected on the basis of brokerage commissions received or expected from any source;

(C) grant to salesmen, branch managers or other sales personnel any participation in brokerage commissions received by such member from portfolio transactions of an investment company whose shares are sold by such member, or from any covered account, if such commissions are directed by, or identified with, such investment company or any covered account; or

(D) use sales of shares of any investment company as a factor in negotiating the price of, or the amount of brokerage commissions to be paid on, a portfolio transaction of an investment company or of any covered account, whether such transaction is executed in the over-the-counter market or elsewhere.

[(5)] (*7*) Nothing [herein] *in this subsection (k)* shall be deemed to prohibit:

(*A*) the execution of portfolio transactions of any investment company or covered account by members who also sell shares of the investment company, [; provided, however, that the members shall seek orders for execution on the basis of the value and quality of their brokerage services and not on the basis of their sales of investment company shares.];

(B) *a member from selling shares of, or acting as underwriter for, an investment company which follows a policy, disclosed in its prospectus, of considering sales of shares of the investment company as a factor in the selection of broker-dealers to execute*

portfolio transactions, subject to the requirements of best execution.

(C) a member from compensating its salesmen and managers based on total sales of investment company shares attributable to such salesmen or managers, whether by use or overrides, accounting credits, or other compensation methods, provided that such compensation is not designed to favor or disfavor sales of shares of particular investment companies on a basis prohibited by this subsection (k).

Dealer Concessions

(1)(1) No underwriter or associated person of an underwriter shall offer, pay, or arrange for the offer or payment to any other member, in connection with retail sales or distribution of investment company securities, any discount, concession, fee or commission (hereinafter referred to as "concession") which:

(A) is in the form of securities of any kind, including stock, warrants or options;

(B) is in a form other than cash (e.g., merchandise or trips), unless the member earning the concession may elect to receive cash at the equivalent of no less than the underwriter's cost of providing the non-cash concession; or

(C) is not disclosed in the prospectus of the investment company. If the concessions are not uniformly paid to all dealers purchasing the same dollar amounts of securities from the underwriter, the disclosure shall include a description of the circumstances of any general variations from the standard schedule of concessions. If special compensation arrangements have been made with individual dealers, which arrangements are not generally available to all dealers, the details of the arrangements, and the identities of the dealers, shall also be disclosed.

(2) No underwriter or associated person of an underwriter shall offer or pay any concession to an associated person of another member, but shall make such payment only to the member.

(3)(A) In connection with retail sales or distribution of investment company shares, no underwriter or associated person of an underwriter shall offer or pay to any member or associated person, anything of material value, and no member or associated person shall solicit or accept anything of material value, in addition to the concessions disclosed in the prospectus.

(B) For purposes of this paragraph (1)(3), items of material value shall include but not be limited to:

(i) gifts amounting in value to more than $50 per person per year.

(ii) gifts or payments of any kind which are conditioned on the sale of investment company securities.

(iii) loans made or guaranteed to a non-controlled member or person associated with a member.

(iv) wholesale overrides (commissions) granted to a member on its own retail sales unless the arrangement, as well as the identity of the member, is set forth in the prospectus of the investment company.

(v) payment or reimbursement of travel expenses, including overnight lodging, in excess of $50 per person per year unless such payment or reimbursement is in connection with a business meeting, conference or seminar held by an underwriter for information purposes relative to the fund or funds of its sponsorship and is not conditioned on sales of shares of an investment company. A meeting, conference or seminar shall not be deemed to be of a business nature unless: the person to whom payment or reimbursement is made is personally present at, or is en route to or from, such meeting in each of the days for which payment or reimbursement is made; the person on whose behalf payment or reimbursement is made is engaged in the securities business; and the location and facilities provided are appropriate to the purpose, which would ordinarily mean the sponsor's office.

(C) For purposes of this paragraph (1)(3), items of material value shall not include:

(i) an occasional dinner, a ticket to a sporting event or the threatre, or comparable entertainment of one or more registered representatives which is not conditioned on sales of shares of an investment company and is neither so frequent nor so extensive as to raise any question of propriety.

(ii) a breakfast, luncheon, dinner, reception or cocktail party given for a group of registered representatives in conjunction with a bona fide business or sales meeting, whether at the headquarters of a fund or its underwriter or in some other city.

(iii) an unconditional gift of a typical item of reminder advertising such as a ballpoint pen with the name of the advertiser inscribed, a calendar pad, or other gifts amounting in value to not more than $50 per person per year.

(4) The provisions of this subsection (1) shall not apply to:

(A) Contracts between principal underwriters of the same security.

(B) Contracts between the principal underwriter of a security and the sponsor of a unit investment trust which utilizes such security as its underlying investment.

(C) Compensation arrangements of an underwriter or sponsor with its own sales personnel.

* * * * *

Explanation of the Board of Governors regarding "Reciprocal Brokerage Rule" and Interpretations of the Board of Governors regarding "Contractual Plan Withdrawal and Reinstatement Privileges," "Special Deals" (including related guidelines), "Selling Dividends," "Arranging Loans," and "Anti-Reciprocal Rule" are deleted.

NADS's Statement of Purpose of Proposed Rule Change

The rule change would revise and streamline Association rules and policies which are specifically directed at the distribution of investment company securities. The proposals consist of a revision of Article III, Section 26 of the Rules of Fair Practice and the repeal of several existing Interpretations of the Board of Governors. The principles of certain of these Interpretations will be incorporated into Section 26, but some interpretations will be eliminated. These proposals result from a review by the Association's Investment Companies Committee of all of the rules, policies and interpretations of the Association in this area. Many of the changes are technical in nature and are for the purpose of clarifying a particular provision or standardizing the language and format of the rule. Several of the changes are substantive, however, and an explanation of the basic reasons for the changes to each provision follows.

Subsection (a)

The technical changes to this provision are designed to make it clear that Section 26 does not apply to variable contracts and to simplify the language concerning the applicability of the rule.

Subsection (b)

All of the definitions contained in the rule would be included in one subsection. The definitions in paragraph (b)(1) would be the same definitions as those in the Investment Company Act. The definition of "business day" currently contained in paragraph (b)(3) of the rule would be eliminated. No substantive changes would be made to the current definitions of "Rights of Accumulation", "any person", "covered account", or "brokerage commissions". The latter two terms are currently defined in paragraph (k)(6) of the rule. The definition of "associated person of an underwriter" in paragraph (b)(7) would be added to facilitate

incorporation of the "Special Deals" Interpretation of the Board.

Subsection (c)

The proposed revision of this provision would incorporate a reference to Section 25, in lieu of restating its provisions. It would also extend the requirement for a sales agreement to contractual plans but would delete the requirement that the sales agreement itself contain provisions of Section 26. The latter requirement was originally designed to insure that members were aware of these provisions and it no longer seems necessary to maintain this requirement. Another change in language would clarify that the sales agreement need not be in effect prior to executing an order but can be executed "as of" the transaction date.

Subsection (d)

The only substantive change to this provision, which is the Association's sales charge regulation pursuant to Section 22(b) of the Investment Company Act of 1940, is the elimination of language from paragraph (d)(2), which currently permits the imposition of a reasonable service charge on dividend reinvestment without a reduction in the maximum sales charge which would otherwise be required by the rule. The Association believes that the imposition of such charges is rare, if not non-existent, and that it is ordinarily less costly per transaction to reinvest dividends than to issue, process and mail a dividend check. It does not seem appropriate to permit an additional charge for an alternative which is less costly.

It is also proposed that paragraph (d)(5) of the rule be deleted. This provision currently requires that certain information concerning increases in sales charges be filed with the Association. Between the initial implementation of this provision on June 1, 1976 and the submission of this proposal to the membership for approval, member filings have not reflected any difficulties with respect to compliance with the substantive sales charge regulations. It is therefore felt that this requirement is no longer necessary and that compliance with the regulations should be monitored through the Association's routine member inspection program, and routine liaison with members of the Commission staff which review investment company registration statements and amendments thereto.

Subsection (e)

Current subsection (e) is to be deleted. This provision incorporates by general reference the provisions of SEC rules applicable to pricing of shares for sale, repurchase or redemption. Given the application of Rule 22c–1 under the Investment Company Act, this provision is unnecessary.

A new subsection (e) would incorporate the principles of the Association's current Interpretation concerning "Selling Dividends".

Subsection (f)

No substantive changes would be made to this provision, which is a slightly modified version of current paragraph (f)(1).

Subsection (g)

This provision (currently paragraph (f)(2) of the rule) would be amended to clarify that a principal underwriter may purchase investment company shares for investment, and that members may purchase money market funds.

Subsections (g) and (h) in the current rule are proposed to be eliminated. Both of these provisions are primarily related to problems which were resolved by the adoption of SEC Rule 22c–1 and it does not appear necessary that the provisions be retained.

Subsection (h)

This provision, which requires a member to repay sales charges to the investment company under certain circumstances, would be revised to clarify its language, including its application to a principal underwriter which utilizes its own sales personnel (so-called "captive" sales forces).

Subsection (i)

This provision, which prohibits parties to sales agreements from purchasing investment company shares as principal at a price lower than the issuer's bid price, (currently subsection (j)(1) of the rule) would be extended to transactions in securities of unit investment trusts.

Subsection (j)

Language changes would be made to this provision (currently subsections (j)(2) and (j)(3) of the rule), as well as addition of a new requirement that express disclosure must be made to an investor when a charge is made for handling a repurchase which charge the investor could avoid by direct redemption of his shares. The reference to "fair commission" would be replaced by "reasonable charge" to permit a member to charge a fee reasonably related to the value of the services provided by the member. This fee shall be viewed in light of all relevant circumstances, including the investor's alternative of a direct redemption.

Subsection (k)

The proposed changes in the definitions in paragraph (b) of the rule would have the effect of extending the application of this provision (commonly referred to as the Anti-Reciprocal Rule) to the distribution of securities of all investment companies. These changes would be consistent with a previous request by the Commission. The Board's Interpretation of this provision would also be incorporated into the rule.

Revisions to the substantive provisions of this subsection would also be made. The most significant of these revisions would be the addition of language (subparagraph (k)(7)(B)), which makes it clear that members can sell shares of an investment company which follows a disclosed policy of considering sales of its shares as a factor in the selection of broker-dealers to execute portfolio transactions. This proposal is virtually identical to one previously submitted to the Commission as part of the Association's testimony at the Commission's public hearings on this general subject (see SEC Release No. 10867 under the Securities Exchange Act of 1934, dated June 20, 1974). This prior proposal was based in substantial part on members' responses to a questionnaire utilized to assist in the preparation of the Association's testimony and written submissions to the Commission. (See Exhibit 3 attached hereto).

The Association's experience with this rule has led to the following conclusions, many of which are explained in further detail in Exhibit 3 attached:

(1) The rule in its current form creates uncertainties for members attempting to comply with the rule which are unnecessary to accomplish its basic purposes.

(2) Contrary to one of the purposes stated by the Commission when it requested that the Association adopt the rule, it unfairly discriminates against smaller broker-dealers and smaller investment companies, particularly regional broker-dealers.

(3) The rule has had a detrimental impact on sales of mutual fund shares beyond that necessary to accomplish its purposes and such detrimental impact was during a period of widespread net redemptions of equity funds' shares.

(4) The fixed commission environment which existed when the Commission expressed its concerns with reciprocity no longer exists and the total portfolio commissions paid by investment companies have clearly been significantly reduced. As the Commission stated in its Report on

Public Policy Implications of Investment Company Growth, "the adverse effects of . . . reciprocity could be substantially mitigated . . . " if exchange commission rates took into account the lower per share costs of executing large institutional transactions. Clearly that is now the case.

(5) The rule only applies to dealers and principal underwriters, yet influences the actions of investment companies and their directors over which the Association has no jurisdiction. It also places the Association in a position of attempting to measure the investment company's intent through regulation of principal underwriters and dealers who receive orders from the investment company.

(6) As evidenced by the recently adopted Rule 12b-1 under the Investment Company Act, the Commission has reconsidered another one of its original stated reasons for the rule and has now concluded that there may well be circumstances where sales of investment company shares are beneficial to existing shareholders and that the independent directors of the company should have the flexibility to authorize use of investment company assets or income to promote the sale of new shares under certain circumstances. While commissions on portfolio transactions are neither investment company assets nor income, there appears to be no reason that directors should not have the flexibility to authorize the consideration of sales of shares when portfolio orders are placed, under circumstances where no additional fund assets or income is being expended.

(7) Existing fiduciary obligations of fund management are sufficient to protect a fund against excessive portfolio transactions and brokerage commissions.

In summary, the purpsoes of the proposed amendments to paragraph (k) are to reduce the anti-competitive impact of the rule on all investment companies *vis a vis* private investment counselors and other competitors, to reduce the anti-competitive impact on smaller investment companies and broker/dealers in particular, to reduce restrictions on the flexibility of investment company directors to meet their responsibilities to shareholders, and to remove some of the vagueness and uncertainty that arises from the rule, while retaining restrictions the Association believes to be effective in controlling potential abuses.

Subsection (1)

This provision would incorporate into the rule several of the principles of the Association's "Special Deals" Interpretation, with some important changes from traditional applications of the Interpretation and its Guidelines. While existing prohibitions against undisclosed dealer concessions would be retained, as would most of the specific examples of acceptable and unacceptable concessions, certain previous restrictions would be eliminated.

The Interpretation has generally been applied to prohibit concessions which were not uniform to all dealers. The proposed revision would permit non-uniform arrangements if accompanied by adequate specific prospectus disclosure. The Interpretation had initially been applied to prohibit most non-cash concessions such as merchandise and trips. Such non-cash concessions would be permitted under the proposed rule, as they have been under the Interpretation in recent years, if disclosed in the fund's prospectus and if qualifying dealers have an option to receive cash equivalents. The cash equivalents must equal at least the costs of the merchandise, trips, etc. to the sponsor, but they could be higher, such as where the value to the dealer may be in excess of the sponsor's cost.

Subparagraphs (1)(1)(A) of the revised rule would also clarify that concessions in the form of securities are prohibited. Such concessions are believed to establish an unacceptable conflict of interest to the dealer. Other changes would clarify that dealer concessions, by definition, cannot be paid directly to representatives (paragraph (1)(2)) that gifts, even those under the $50 limit, cannot be conditional (subparagraphs (1)(3) (B) and (C) and that informational meetings cannot be conditional or include non-registered persons (subparagraph (1)(3)(B)(v)).

Paragraph (1)(4) clarifies that the prohibitions of this portion of the rule do not apply to contracts between principal underwriters, or between a principal underwriter and the sponsor of a unit investment trust, or to internal compensation arrangements. The annual limitation on gifts would also be increased to $50 from $25.

Interpretation Concerning Contractual Plan Withdrawal and Reinstatement Privileges

It is proposed that this Interpretation be eliminated. It was adopted by the Board of Governors of the Association in 1966 to deal with a specific problem related to the detrimental impact on investment companies and their shareholders of certain types of promotional activities by dealers and contactual plan sponsors. Since the time the Interpretation was adopted, there have been a number of court decisions dealing with the general subject of the responsibility of investment company directors toward shareholders. The Board is of the view that the responsibility of investment company directors to protect the interests of shareholders is such that the subject Interpretation is unnecessary and should be repealed. Participation by members in practices which are harmful to investment company shareholders and which violate federal securities laws is, of course, inconsistent with NASD rules.

Interpretation Concerning "Special Deals"

This Interpretation would be repealed but several of its principles, and interpretations thereof, have been incorporated into Section 26. Reference should be made to the explanation of subsection (1) of Section 26.

Interpretation Concerning "Selling Dividends"

This Interpretation would be repealed but its basic provisions have been incorporated into subsection (e) of Section 26.

Interpretation Concerning "Arranging Loans"

This Interpretation would be repealed as unnecessary. The Interpretation essentially represents an explanation of the application of Section 11(d)(1) of the Securities Exchange Act, and Regulation T of the Federal Reserve Board, to the extension of credit on investment company shares. The Federal Reserve Board has adopted an amendment to Regulation T, effective November 3, 1980, which removes the current prohibition against broker-dealer extension of credit on mutual fund shares. Also, both the Association and the Investment Company Institute have requested that the Securities and Exchange Commission reconsider the application of Section 11(d)(1) of the Securities Exchange Act to mutual fund distributions. Since the subject Interpretation is directly related to these matters, and since it is neither totally consistent with, nor adds substantively to existing requirements, it would be repealed.

Interpretation Concerning Anti-Reciprocal Rule

This Interpretation would be repealed but it would be incorporated into

Section 26. Reference should be made to subsection (k) of Section 26.

NASD's Statement of Basis Under the Act for Proposed Rule Change

Section 15A(b)(6) of the Act (15 U.S.C. 780–3(b)(6)) provides that the rules of a registered securities association must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

Furthermore, Section 22 of the Investment Company Act, as amended (15 U.S.C. 80a–22) provides that a registered securities association may prescribe rules governing the distribution, redemption and repurchase of redeemable securities.

Comments Received from Members, Participants or Others on Proposed Rule Change

The proposed amendments were submitted to the membership for comment on March 6, 1980 (Notice to Members 80–7). Twenty-six comment letters were received, none of which were in opposition to the proposals. The vast majority of commentators specifically supported the proposed amendments to Section 26(k) (the Anti-Reciprocal Rule). Several changes in language were made to the proposal as submitted for comment. All of these changes were for purposes of further clarification of particular provisions and did not alter the substance of the proposed rule change.

NASD's Statement of Burden on Competition

Existing Section 26, and the Interpretations of Section 1, do have anti-competitive aspects. The amendments would create relatively minor new regulatory burdens in certain respects but, for the most part and on balance they reduce or eliminate competitive burdens created by the existing provisions.

Additional competitive burdens would be applied relative to unit investment trusts and/or closed-end management investment companies, by the expansion of the application of certain provisions now applicable only to open-end management investment companies. These provisions include paragraphs (c), (f), (i), and (k) of Section 26. The additional competitive burdens in this respect are offset by the result of more comparable regulation of unit trusts and closed-end companies with open-end companies, and, in any event, these burdens are not inappropriate in furtherance of the purposes of the Act.

The amendments ot new paragraphs (c), (g), (k), and (l) of Section 26, as well as the elimination of existing paragraphs (d)(5), (e), (g) and (h), and the repeal of the Interpretation on "Contractual Plan Withdrawal and Reinstatement Privileges", constitute reductions in existing competitive burdens. Other technical changes have no material impact on competition. The amendment to paragraph (k) of Section 26, in particular, is considered by the Association as necessary to reduce existing burdens on competition to a level consistent with the furtherance of the purposes of the Act. As explained more completely in the foregoing explanation of the Purpose of the Proposed Amendment, and in Exhibit 3, the current provisions of this paragraph appear to create competitive burdens which are unnecessary and unfair considering the purposes of this rule and the Act.

On or before January 21, 1981 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with repsect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 30 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

December 11, 1980.

[FR Doc. 80-39024 Filed 12-15-80; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 2-31965 (22-5428) 2-53215 (22-8355)]

Sybron Corp., Application and Opportunity for Hearing

December 11, 1980.

Notice is hereby given that Sybron Corporation, a New York Corporation ("Sybron"), has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Morgan Guaranty Trust Company of New York, a New York trust company (the "Bank"), under certain indentures that are qualified under the Act and under a new indenture that is not qualified under the Act are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest is such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

Sybron alleges that:

1. The Bank, as Trustee, has entered into an Indenture dated as of April 15, 1969 (the "1969 Indenture"), with Sybron pursuant to which there has been issued $25,000,000 aggregate principal amount of Sybron's 7½% Sinking Fund Debentures due April 15, 1994 (the "Debentures"). As of December 3, 1980, $17,309,000 of such principal amount was outstanding. The 1969 Indenture was filed as Exhibit 4(c) to Registration Statement No. 231965 under the

Securities Act of 1933, as amended (the "1933 Act"), and has been qualified under the 1939 Act.

2. The Bank, as Trustee, has also entered into an Indenture dated as of May 1, 1975 (the "1975 Indenture"), with Sybron pursuant to which there has been issued $35,000,000 aggregate principal amount of Sybron's 9⅛% Notes due May 1, 1985 (the "Notes"). As of December 3, 1980, all of such principal amount was outstanding. The 1975 Indenture was filed as Exhibit 2 to Registration No. 2–53215 under the Securities Act of 1933, as amended (the "1933 Act") and has been qualified under the Act.

3. On October 9, 1980 the New Jersey Economic Development Authority, a public body corporate and politic constituting an instrumentality of the State of New Jersey (the "Authority") and the Bank, as Trustee, entered into a Trust Indenture dated as of September 1, 1980 (the "1980 Indenture") pursuant to which the Authority issued its 1980 Pollution Control Revenue Bond (Sybron Corporation Facility) in the aggregate principal amount $3,557,500 (the "Bond"). The Bond was issued to finance the cost of a waste water treatment plant for Sybron in Birmingham, New Jersey (the "Facility"). The Authority has entered into a Loan Agreement dated as of September 1, 1980 with Sybron (the "Loan Agreement") pursuant to which the Authority agreed to lend to Sybron the proceeds of the issuance of the Bond. The Bond will be payable from the revenues, receipts and other payments derived pursuant to the Loan Agreement, which are intended to be sufficient to pay the principal of, premium, if any, and interest on the Bond. No security interest in the Facility has been granted to the Trustee. The Bond has not been registered under the 1933 Act on the basis of the exemption provided by Section 3(a)(2) thereof and the 1980 Indenture has not been qualified under the Act on the basis of the provisions of Section 304(b) thereof.

4. Under Section 7.08(c)(1)(ii) of the 1969 Indenture and Section 7.08(c)(1)(ii) of the 1975 Indenture the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1980 Indenture if Sybron shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1969 Indenture, the 1975 Indenture and the 1980 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said Indentures.

5. No default has at any time existed under the 1969 Indenture, the 1975 Indenture or the 1980 Indenture. Sybron's obligations under the 1969 Indenture and the 1975 Indenture and its obligations under the 1980 Loan Agreement as they relate to the Bond are wholly unsecured and rank equally *pari passu*. Sybron has no obligations in respect of the Bond.

6. Such differences as exist between the 1969 Indenture, the 1975 Indenture, the 1980 Indenture and the Loan Agreement are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said Indentures.

Sybron has waived (a) notice of hearing, (b) hearing on the issues raised by this Application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W. Washington, D.C.

Notice is further given that any interested person may, not later than December 31, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-39022 Filed 12-15-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17362; File No. SR-PDTC 80-2]

Philadelphia Depository Trust Company; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on December 8, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Philadelphia Depository Trust Company (PHILADEP) proposes an amendment to its *Rule 2, Participants and Pledgees*, whereby pledgee banks may, by separate agreement, make collateral pledged by participants available for use in the stock loan program of Stock Clearing Corporation of Philadelphia (SCCP).

Basis and Purpose of Proposed Rule Change

The purpose of the proposed rule change is to enable PHILADEP and SCCP to broaden the appeal of SCCP's stock loan program, which heretofore has been utilized only by a few larger brokers which have a large enough "box" of securities available for stock loan to make it economically feasible. Smaller regional brokers, SCCP's and PHILADEP's majority of participants, have been unable to take advantage of the program.

Another purpose of the rule change is to make PHILADEP's collateral loan program more saleable by banks to their broker customers.

The proposed rule change will enable PHILADEP to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible in accordance with the purposes set forth in Section 17A(b)(3)(f) of the Act. One of the purposes of SCCP's Stock Loan Program is to facilitate timely deliveries of securities to buyers when the seller is late in bringing in the securities. Broadening the scope of this program to make it attractive to smaller, regional brokers will result in a greater pool of stock available to SCCP with which to make deliveries.

Formal comments have not been solicited or received from members, participants or others on the proposed rule change.

No burden on competition will be imposed by the proposed rule change. The proposed rule change does not discriminate between marketplaces nor does it inhibit clearing interfaces.

On or before January 20, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-

regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 5, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-39023 Filed 12-15-80; 8:45 am]

BILLING CODE 8010-01-M

VETERANS ADMINISTRATION

Veterans Administration Medical Center; Clinical Addition; Biloxi, Miss.; Notice of Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a Clinical Addition at the Veterans Administration Medical Center (VAMC), Biloxi, Mississippi.

The project proposes the construction of a four (4) story clinical addition of approximately 67,000 net square feet with possible vertical expansion of one additional floor in the future. The addition will be a free standing building with enclosed inpatient access from building No. 1, in the area presently occupied by temporary building Nos. 41 and 42.

The VA has determined that this project is a "Critical Action" as defined by Executive Order 11988 and as such should avoid being sited within the 500 year floodplain. The 500 year flood elevation was estimated to determine the probable flood hazard and the impact of the proposed project on the floodplain. Available data indicates a portion of the planned site of the clinical addition lies below the 500 year flood elevation. However, a determination has been made by the VA that the planned project will not adversely affect the floodplain. The potential for flooding will be considered in the design of the building by elevating the structure above the base flood level using open works for support. It is the determination of the VA that there will be no significant increase in the elevation of flood waters due to this project.

Development of the project will have minimal impacts on the human and natural environment as it affects topography, vegetation, surface runoff and erosion. During construction, additional noise, dust, and visual impacts will exist.

Mitigation of the project impacts include: slope stabilization, soil erosion and sedimentation control, onsite noise abatement measures and control of construction dust.

Findings conclude that the proposed project will not cause a significant effect on the physical and human environment and, therefore, does not require the preparation of an Environmental Impact Statement. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Veterans Administration, Room 950, 1425 K Street NW., Washington, D.C. Questions or requests for single copies of the Environmental Assessment may be addressed to: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202-389-2526).

Dated: December 9, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 80-38930 Filed 12-15-80; 8:45 am]

BILLING CODE 8320-01-M

Veterans Administration Wage Committee; Meetings

Under the provisions of section 10 of Public Law 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on: Thursday, January 8, 1981; Thursday, January 22, 1981; Thursday, March 19, 1981.

The meetings will convene at 2:30 p.m. and will be held in Room 1175A, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, as amended by Public Law 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commerical or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175E, 810 Vermont Avenue, NW., Washington, DC 20420, (202-389-2338).

Dated: December 9, 1980.

Max Cleland,

Administrator.

[FR Doc. 80-38931 Filed 12-15-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 243
Tuesday, December 16, 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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[M-301 Amdt 4, Dec. 11, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., December 11, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 4. Docket 38470, Petition to allow cooperative shippers associations to act as agents for direct carriers. (Memo 118, OGC, BDA, BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-2298-80 Filed 12-12-80; 3:09 pm]

BILLING CODE 6320-01-M

2,

[M-302, Dec. 11, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., December 18, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 37867, Boston-London Service Case. Instructions to the staff.
3. Docket 36544, Petition by the Air Freight Forwarders Association of America to institute a rulemaking proceedng to require the recurrent reporting of certain air cargo data. (OC, OEA, BDA, BIA, BCAA, BCP, OGC, OCCR)
4. Amendement of Part 241 of the Economic Regulations to reduce reporting requirements for certificated carriers. (OC, OEA, BDA, BIA, BCAA, BCP, OGC, OCCR)
5. Dockets 36595 and 38746, The Investigation Into the Competitive Marketing of Air Transportation, and EDR-408, respectively. Order disposing of various motions directed to eliminating duplicative issues. (Memo No. 149, 149-A, For Information, dated December 10, 1980, OGC)
6. Docket 33723, Part 302, Rules of Practice in Economic Proceedings. (Memo No. 148, OGC)
7. Docket 27114, Pan American—Trans World Airlines Route Exchange Agreement, reconsideration, on Pan American petition, of board order denying Pan American motion for order setting aside LPP arbitration award. (Memo No. 144, OGC)
8. Docket 38470, Petition to allow cooperative shippers associations to act as agents for direct carriers. (Memo No. 118, OGC, BDA, BIA)
9. Docket 37905, Schedule listings and delays in discontinuing service. (Memo No. 135, OGC, BDA)
10. Docket 33314, Affirmation of final rule increasing air taxi aircraft size from 30 to 60 seats after request for comments. (Memo No. 136, OGC)
11. Docket 38147, *Pre-filing Tariff Approval Procedures.* (Memo No. 140, BDA, OGC)
12. Dockets 30699, 30790, 34579, 36004, 36962, 34485, *Oakland Service Case, U.S.-Benelux Low-Fare Proceeding, Application of Aeroamerica, Inc., for 408 and 409 Approval, Applications of Aeroamerica, Inc. for certificate Authority, Application of Aeroamerica, Inc. for an Exemption. (Memo No. 143, (OGC)*
13. Docket 38574, Reeve Aleutian Airways, Inc. Petition for Fuel Surcharge applicable to the carriage of intra-Alaska mail. (Memo No. 134, BDA)
14. Docket 38901, Application of the International Air Transport Association for approval of an agreement establishing a fuel Market Monitoring Program (FMMP). (Memo No. 131, BDA, OGC, BCP)
15. Docket 38504, Application of Mississippi Valley Airlines, Inc. for compensation for losses in providing essential air service at Ottumwa, Iowa. (Memo No. 147, BDA, OCCR, OGC, OC)
16. Docket 38503, Application of Mississippi Valley Airlines, Inc. for compensation for losses in providing essential air service at Clinton, Iowa. (BDA, OCCR, OGC, OC)
17. Dockets EAS-336, EAS-338, appeals of Kingman and Prescott, Arizona. (Memo No. 087-A, OGC, BDA, OCCR)
18. Docket 38224, Notice of Perkiomen Airways to terminate service at Hazleton, PA. (Memo No. 012-B, BDA)
19. Docket 38654, Proceeding to Amend the Certificates of Southwest Airlines and Texas International Airlines. (Memo No. 142, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-6320-01 Filed 12-12-80; 3:09 pm]

BILLING CODE 6320-01-M

3

[M-301 Amdt 1, Dec. 9, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., December 11, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 7a. Docket 36595, *Investigation Into the Competitive Marketing of Air Transportation* and EDR-408. Memorandum discussing procedural options for dealing with pricing issues; draft order disposing of motions concerning EDR-408 and the *Competitive Marketing Investigation;* Order granting reconsideration of Order 80-2-152 and Order to Show Cause.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-2291-80 Filed 12-11-80; 4:50 pm]

BILLING CODE 6320-01-M

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern time), Tuesday, December 16, 1980.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2278-80.

CHANGE IN THE MEETING: The following matter was added to the agenda for the open portion of the meeting:

Procurement of publications for Field and Headquarters fiscal year 1981

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change:

Eleanor holmes Norton, Chair
Ethel Bent Walsh, Commissioner
J. Clay Smith, Jr., Commissioner

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice issued December 11, 1980.

[S-2294-80 Filed 12-12-80; 11:27 am]

BILLING CODE 6570-06-M

5

FEDERAL HOME LOAN BANK BOARD.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, December 18, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The open meeting previously scheduled for 9:30 a.m., has been changed to 10 a.m.

[S–2295–80 Filed 12–12–80; 11:37 am]

BILLING CODE 6720–01–M

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9;30 a.m., Monday, December 15, 1980.

PLACE: 1700 G St. NW, Sixth floor board room, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

MATTERS TO BE CONSIDERED: The board meeting previously scheduled for Monday, December 15, 1980 at 9:30 a.m. has been changed to 10 a.m. and the following items have been added to the open meeting:

Merger: Maintenance of Branch Offices and Cancellation of Membership and Insurance Founders Federal Savings & Loan Association, Philadelphia, Pennsylvania *into* Olney Federal Savings & Loan Association, Avington, Pennsylvania

Increase of Accounts of an Insurable type through Merger of First Savings & Loan Association, Statesville, North Carolina *and* Robbins Savings & Loan Association, Robbins, North Carolina *into* First Peoples Savings & Loan Association, Asheboro, North Carolina

Recommendation for Modifications to Community Investment Fund Line of Credit Formula

No. 432, December 12, 1980.

[S–2301–80 Filed 12–12–80; 4:09 pm]

BILLING CODE 6720–01–M

7

NATIONAL CREDIT UNION ADMINISTRATION.

The National Credit Union Administration Board determined that its business required that the previously announced open meeting on December 3, 1980, include an additional item, which was open to public observation.

Consideration of loan interest rate ceiling.

The previously announced items were:

1. Review of Central Liquidity Facility Lending Rate.
2. Consideration of a proposed rule regarding the month-end reporting forms for use by credit unions.
3. Request for the approval of procedures for cooperation between the federal financial institution regulatory agencies and the Department of Labor in the enforcement of the Employee Retirement Income Security Act of 1974.
4. Consideration of uniform interagency consumer compliance rating system for the five federal financial institutions.
5. Report on actions taken under delegations of authority.
6. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

The agency notified the persons on its Sunshine call list of the change prior to the meeting.

The meeting was held at 9:30 a.m., in the 7th Floor Board Room, 1776 G St., N.W., Washington, D.C.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–2292–80 Filed 12–11–80; 5:02 pm]

BILLING CODE 7535–01–M

8

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Thursday, December 18, 1980.

PLACE: seventh floor board room, 1776 G Street N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.
2. Consideration of a waiver of the regular reserve transfer for the fourth quarter of 1980.
3. Consideration of a revision of the regulations applying to retirement accounts.
4. Consideration of Advance Notice of Proposed Rulemaking for revising Regulation 721, Federal Credit Union insurance and group purchasing activities.
5. Consideration of Interpretive Ruling and Policy Statement regarding the use of statistical sampling for the verification of members' accounts that is required by Section 115 of the Federal Credit Union Act and Section 741.2 of the NCUA Rules and Regulations.
6. Final Rule on Premiums.
7. Adoption of an NCUA System of Grievance Records.
8. Publication of Fifth Semi-Annual Agenda in Federal Register.
9. Report on actions taken under delegations of authority.
10. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m., Thursday, December 18, 1980.

PLACE: seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed mergers. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Report of action taken under Section 201 (c)(2) of the Federal Credit Union Act. Closed pursuant to exemption (9)(A)(ii).
3. Administrative Action under Section 120 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (10).
4. Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (10).
5. Administrative Actions under Section 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (9)(B).
6. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
7. Division of Assets, Liabilities and Capital. Closed pursuant to exemptions (8) and (9)(A)(ii).
8. Request for special assistance under Section 208 and purchase and assumption under Sections 107 and 205 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
9. Allocations of Executive Positions and Noncareer Appointment Authority. Closed pursuant to exemptions (2) and (6).
10. Consideration of change to NCUA policy regarding share-to-Loan Transfers in involutary liquidations. Closed pursuant to exemption (9)(B).
11. Delegation of 208 Assistance to assist in the voluntary liquidation of solvent insured credit unions. Closed pursuant to exemption (2).
12. Consideration of Policy change to permit the use of collection agencies. Closed pursuant to exemption (9)(B).
13. Consideration of Policy change to allow Finance companies to bid on loan portfolios. Closed pursuant to exemption (9)(B).

FOR MORE INFORMATION CONTACT: Joan O'Neill, Program Assistant, telephone (202) 357–1100.

[S–2293–80 Filed 12–11–80; 5:03 pm]

BILLING CODE 7535–01–M

9

[NM–80–42]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, December 23, 1980.

PLACE: NTSB Board Room, National Transporation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first four items will be open to the public; the fifth and sixth items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report*—Rear End Collision of SEPTA-Conrail Trains Nos. 406

and 472 on Conrail Track at North Wales, Pennsylvania, on July 17, 1980, and *Recommendation Letters* to the Federal Railroad Administration and to the Consolidated Rail Corporation.

2. *Railroad Accident Report*—Train Accident Involving Amtrak Passenger Train No. 225 and Amtrak Work Extra No. 4934 at Linden, New Jersey, on July 9, 1980.

3. *Special Investigation Report*—Phosphorus Trichloride Release in Boston and Maine Yard 8 During Switching Operations, Somerville, Massachusetts, April 3, 1980.

4. *Aircraft Accident Report*—Air Traders Internatinal, Lockheed 104H, N74CA, Columbus, Indiana, June 22, 1980.

5. *Opinion and Order*—Administrator v. Smith, Docket SE–4426, disposition of respondent's appeal.

6. *Order*—Administrator v. Cuthel, Docket SE–4564; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–472–6022.

December 12, 1980.

[S–2296–80 Filed 12–12–80; 12:46 p.m.]

BILLING CODE 4910–58–M

10

[NM–80–41]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Wednesday, December 17, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED:

A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible.

Recommendation to the Federal Aviation Administration regarding installation of shoulder harnesses.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–472–6022.

December 12, 1980.

[S–2297–80 Filed 12–12–80; 12:11 p.m.]

BILLING CODE 4910–58–M

11

POSTAL RATE COMMISSION.

TIME AND DATE:
2 p.m., Tuesday, December 16, 1980.
10 a.m., Wednesday, December 17, 1980.

PLACE: Conference room, room 500, 2000 L Street NW., Washington, DC

STATUS: Closed.

MATTERS TO BE CONSIDERED: Issues in docket R80–1. (Closed pursuant to 5 U.S.C. 552b(c)(10).)

CONTACT PERSON FOR MORE INFORMATION: Watson, Information Officer, Postal Rate commission, room 500, 2000 L Street, NW., Washington, D.C. 20268; telephone (202) 254–5614.

[S–2300–80 Filed 12–12–80; 3:32 pm]

BILLING CODE 7715–01–M

12

CHRYSLER CORPORATION LOAN GUARANTEE BOARD.

NOTICE OF CLOSED BOARD MEETING.

The Chrysler Corporation Loan Guarantee Board will hold a meeting closed to the public on December 15, 1980 at 5:00 p.m., in Room 4426, Main Treasury Building, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C.

The purpose of the meeting is to discuss and evaluate information about possible future actions by Chrysler that was informally communicated to the Board's staff last week.

Discussions of the above matters are closed to the public pursuant to applicable exemptions under the Government in the Sunshine Act. The discussions at the meeting will involve significant amounts of non-public financial and commercial information received from Chrysler Corporation, relating to anticipated profitability, market positions, capital expenditures and cost reduction actions.

An open meeting is likely to disclose (1) confidential commercial and financial information, which is exempt under 5 U.S.C. § 552b(c)(4); and (2) information the premature disclosure of which would be likely to significantly frustrate implementation of Board action, which is exempt under 5 U.S.C. § U.S.C. 552b(C)(9)(B).

The Board voted unanimously to close the meeting.

Those persons expected to attend the meeting, or portions thereof, include the Board members, the Executive Director, General Counsel, and Secretary of the Board, and members of the respective staffs of each Board member.

Those persons desiring further information should contact Bruce D. Bolander, Secretary of the Board, at (202) 566–2278.

This notice is given as a result of a court order. The position of the Board is that it is not subject to the Government in the Sunshine Act.

TIME AND DATE: December 15, 1980 at 5:00 p.m.

PLACE: Room 4426, Main Treasury Building, 15th Street and Pennsyulvania Avenue, N.W., Washington, D.C.

STATUS: Closed to the public.

MATTERS TO BE DISCUSSED: The purpose of the meeting is to discuss and evaluate information about possible future actions by Chrysler that was informally communicated to the Board's staff last week.

CONTACT PERSON FOR MORE INFORMATION: Bruce D. Bolander, Secretary of the Board (202) 566–2278.

This notice is given as a result of a court order. The position of the Board is that it is not subject to the Government in the Sunshine Act.

Dated: December 15, 1980.

Bruce D. Bolander,

Secretary of the Board.

[S–2304–80 Filed 12–15–80; 11:33 am]

BILLING CODE 4810–27–M

federal register

Tuesday
December 16, 1980

Part II

Department of Labor

Public Contracts and Property Management; Federal Standards for Federally Funded Grants and Agreements

DEPARTMENT OF LABOR

41 CFR Part 29-70

Public Contracts and Property Management; Federal Standards for Federally Funded Grants and Agreements

AGENCY: Department of Labor.

ACTION: Final rule and request for comments.

SUMMARY: Office of Management and Budget Circulars A-102 and A-110, which provide the Federal administrative standards for Federal grants and agreements, require that Federal agencies with grant or agreement programs issue regulations to implement the provisions of the Circulars. The Department of Labor published its implementing regulations in the **Federal Register** on July 20, 1979. Because of recent changes made by the OMB to the Circulars which provide the basis for Federal agency regulations, it is necessary that the Department of Labor regulations be amended to incorporate the changes.

This rule amends Part 29-70 of Title 41 of the Code of Federal Regulations, covering administrative requirements for Department of Labor grants and agreements, to incorporate requirements of revised Circulars issued by the Office of Management and Budget (OMB). On August 15, 1979, the OMB published revised grantee procurement standards, "Standards Governing State and Local Grantee Procurement; Attachment O of OMB Circular A-102," in the **Federal Register**. On March 4, 1979, the OMB published OMB Circular A-21, "Cost Principles for Educational Institutions." On July 8, 1980, the OMB published Circular A-122, "Cost Principles for Nonprofit Organizations."

EFFECTIVE DATE: The regulations are effective on December 16, 1980. Except for grants and agreements awarded under the Comprehensive Employment and Training Act (CETA), as amended, they shall be made applicable to new grants and agreements awarded on or after the date of publication of the regulations as a final rule; and to existing grants and agreements, as they are modified on or after the publication date, to add funds or to extend the grant or agreement period. The regulations shall be made applicable 30 days after the date of publication of the regulations as a final rule to CETA grants and agreements awarded or modified to include new funds or to extend the grant or agreement period; or, in awards made on a program year basis, at the beginning of the program year following publication.

Comments must be received on or before February 17, 1981.

ADDRESS: Comments must be in writing and should be sent to Theodore Goldberg, Director, Office of Grants and Procurement Policy, Office of the Comptroller, OASAM, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-9174.

FOR FURTHER INFORMATION CONTACT: Theodore Goldberg, Director, Office of Grants and Procurement Policy, Office of the Comptroller, OASAM, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-9174.

SUPPLEMENTARY INFORMATION:

Grantee Procurement Standards

On August 15, 1979, the OMB published a revised Attachment O to OMB Circular A-102 entitled, "Standards Governing State and Local Grantee Procurement; Attachment O of OMB Circular A-102." The revised standards became effective on October 1, 1979, and paragraph 1a of the attachment requires that Federal agency procurement standards not conforming to the revised Attachment O be rescinded. Attachment O of OMB Circular A-110, which provides procurement standards for nonprofit organizations that are recipients of Federal grants or agreements, has not been revised. To provide procurement standards applicable to recipients subject to either OMB Circular A-102 or A-110, both 41 CFR 29-70.216 and 41 CFR 29-70.216a (which sets forth the procurement standards for nonprofit recipients which differ from the standards set forth in § 29-70.216) have been completely revised. Section 29-70.216b, covering special procurement standards for recipients of grants or agreements under the Comprehensive Employment and Training Act, as amended, remains unchanged except for reference changes necessitated by the revision to § 29-70.216.

The following significant changes are made in § 29-70.216:

a. Section § 29-70.216-1 was amended to clarify that § 29-70.216 applies to recipient and subrecipient procurement (i.e., purchase orders and contracts) and not, except as otherwise stated, to the award of, or provisions required in, subgrants and subagreements.

b. Section § 29-70.216-3 was amended to delete the last sentence which formerly provided that a DOL Agency could require submission of recipient procurement procedures. This provision is still included in the section of the regulations covering procurement by nonprofit organizations. (See § 29-70.216-1(a)).

c. Section 29-70.216-4 provides for Federal review and certification of procurement systems of recipients that are State and local governments.

d. Section 29-70.216-5 sets forth the circumstances under which the Department will review State and local government recipient decisions when protests are made regarding recipient contractor selections.

e. Section 29-70.216-6 provides that a recipient whose procurement system is currently certified need not obtain prior grant officer approval of proposed contracts; and sets forth requirements as to prior grant officer approval for proposed contracts of a recipient whose procurement system is not currently certified. The dollar threshold for a recipient procurement subject to prior approval is increased from $5,000 to $10,000.

f. Section 29-70.216-8(a) encourages State and local government recipients to enter into intergovernmental agreements for procurement and use of common goods and services.

g. Section 29-70.216-8(b) strengthens the requirement for utilization of minority and small businesses in recipient procurement, and adds women-owned businesses to the affirmative utilization requirement. The section also encourages the use of sources located in labor surplus areas.

h. Section 29-70.216-9 requires that the recipient use the procurement method appropriate to the procurement and describes small purchase, formal advertising, competitive negotiation, and noncompetitive negotiation methods.

i. Section 29-70.216-10(a) required that the recipient make a price or cost analysis with every procurement action.

j. Section 29-70.216-13 (formerly § 29-70.216-8), which sets forth the provisions required in recipient contracts, includes the following changes: Paragraph (b)(4), the general provision prescribing maximum utilization of minority and small businesses is amended to include women-owned businesses; and the wording of paragraph (c)(2), the special provision covering patents and copyrights, is changed to conform to the wording in revised Attachment O.

k. Section 29-70.216a, covering Federal standards for procurement of nonprofit recipients which differ from standards set forth in § 29-70.216 (standards for procurement of recipients that are State or local governments or federally recognized Indian tribal governments), was revised. The revision

reflects changes made in Attachment O to OMB Circular A–102 which are not presently provided for in OMB Circular A–110 (applicable to nonprofit recipients). These include: Federal review and certification of a recipient's procurement system; Federal agency review of recipient contractor protests; and limitations on prior Federal agency review of recipient procurements.

Cost Principles

On March 6, 1979, the OMB published OMB Circular A–21, which revises cost principles for recipients that are educational institutions. OMB Circular A–21, effective October 1, 1979, supersedes Federal Mangement Circular No. 73–8. A change which affects recipient property management is the definition of "nonexpendable personal property" ("equipment"). "Equipment" is defined in OMB Circular A–21 to mean "an article of nonexpendable tangible personal property having a useful life of more than 2 years and an acquisition cost of $500 or more per unit." Nonexpendable personal property (equipment) had been defined in OMB Circular A–102 and in the DOL implementing regulations at 41 CFR 29–70.102 as "tangible personal property having a useful life of more than 1 year and an acquisition cost of $300 or more per unit." Following discussions with OMB officials responsible for OMB Circulars which provide Federal standards, the "2-year useful life and $500 or more unit cost" definition was used in the revised definition of "nonexpendable personal property." This provides uniform treatment of recipients of Federal grants or agreements whether they are State or local governments, educational institutions, or other nonprofit organizations.

On July 8, 1980, the OMB published OMB Circular A–122. This Circular establishes cost principles applicable to grants and agreements with non profit organizations except for: Colleges and universities covered by OMB Circular A–21; hospitals; and nonprofit organizations specified in Attachment C of Circular A–122 that, because of their size and nature of their operations, are subject to cost principles applicable to commercial concerns (41 CFR 1–15.2).

The change in the definition of nonexpendable personal property is reflected in §§ 29–70.102 and 29–70.215–5. The changes in references to applicable Federal cost principles are reflected in § 29–70.103 (b) and (c).

Other Changes

The recipient assurance (a)(12) under § 29–70.214a is amended to make clear that the requirements of the Clean Air Act and the Federal Water Poliution Control Act, as amended, apply.

Other changes were made to amend references to reflect the Circular changes. Due to the extensive changes to Attachment O, it was necessary to rearrange and renumber sections of § 29–70.216 and to amend the table of contents covering that section.

Publication as a Final Rule

The Department of Labor's regulation at 29 CFR 2.7 states that it is the policy of the Department of Labor to use proposed rulemaking procedures (5 U.S.C., section 553) when issuing regulations covering grants. However, the Department hereby finds, pursuant to 5 U.S.C. 553(b)(3)(B), that good cause exists to dispense with notice and comment on these new rules because of the following reasons: (1) The regulations revise ongoing Department of Labor grant regulations only to the extent that revisions were made in governing OMB Circulars A–102, A–21, and A–122; (2) paragraph 1c of Attachment O directs Federal agencies to rescind nonconforming regulations; and (3) all revised Circulars are now in effect. Nevertheless, even though this document contains final rules, the Department, in keepng with the spirit of 29 CFR 2.7 and Executive Order 12044, is requesting comments on these final rules. Changes to these rules may be made at a later date, depending upon the extent and nature of any comments. Comments are due 60 days from publication date.

The financial and other impact of these regulations is less than specified in DOL criteria for determining when a regulatory analysis should be made (see 44 FR 5576, January 26, 1979). Therefore, the preparation of a regulatory analysis is not required for these regulations.

Accordingly, Part 29–70 of Title 41 of the Code of Federal regulations is amended as follows:

1. Section 29–70.216 of the table of contents is amended by revising the entries in § 29–70.216–4 through § 29–70.216–8 and by adding new entries as § 29–70.216–9 through § 29–70.216–13. Section § 29–70.216 reads as follows:

* * * * *

29–70.216–4 Procurement system reviews.
29–70.216–5 DOL reviews—contractor selection protests.
29–70.216–6 Required prior grant officer approvals.
29–70.216–7 Recipient code of conduct.
29–70.216–8 Procedural requirements.
29–70.216–9 Methods of procurement.
29–70.216–10 Contract pricing.
29–70.216–11 Recipient procurement records.
29–70.216–12 Recipient contract administration.
29–70.216–13 Content and provisions of recipient contracts.

* * * * *

2. The following definitions in § 29–70.102, *Definitions*, are revised to read:

§ 29–70.102 Definitions.

* * * * *

"Noncompetitive negotiation" means negotiated procurement in which a proposal is solicited from only one source; or, after solicitation of a number of sources, competition is deemed inadequate.

"Nonexpendable personal property" means tangible personal property having a useful life of more than 2 years and an acquisition cost of $500 or more per unit. A recipient may use its own definition provided that such definition includes all tangible nonexpendable personal property covered by the above definition.

* * * * *

3. Paragraphs (b) and (c) of § 29–70.103, *Cost principles*, are revised to read:

§ 29–70.103 Cost principles.

* * * * *

(b) *Institutions of higher education.* OMB Circular A–21 entitled, "Cost Principles for Educational Institutions," provides principles for determining costs applicable to grants and agreements with public and private institutions of higher education. OMB Circular A–88 assigns to a cognizant agency the responsibility for coordinating the establishment of indirect cost rates and auditing Federal grants with most colleges and universities.

(c) *Other nonprofit organizations.* OMB Circular A–122 entitled, "Cost principles for nonprofit organizations," provides principles for determining costs applicable to grants and agreements with nonprofit organizations. The Circular does not apply to: Colleges and universities covered by OMB Circular A–21; hospitals; or specific nonprofit organizations identified in Attachment C to OMB Circular A–122 that, because of their size and nature of their operations, shall operate their grants and agreements under cost principles applicable to commercial concerns (41 CFR 1–15.2). Pending the development of cost principles for hospitals, cost principles located at 41 CFR 1–15.2 or such other cost principles as may be specified by the grant officer in the grant or agreement document shall govern allowable costs under grants or agreements with hospitals.

4. Section 29–70.214a is amended by revising paragraph (a)(12) to read as follows:

§ 29–70.214a Applying for Federal financial assistance—Special requirements, nonprofit organizations.

* * * * *

(a) *Nonconstruction programs.*

* * * * *

(12) It will comply, to the extent applicable, with all requirements of Section 114 of the Clean Air Act (42 U.S.C. 1857, et seq.), and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), respectively, or any amendments to the Acts, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and Water Act, respectively, and all regulations and guidelines issued thereunder.

* * * * *

5. Paragraph (b) of § 29–70.215–5, *Other nonexpendable personal property*, is revised to read:

§ 29–70.215–5 Other nonexpendable personal property.

* * * * *

(b) *Acquisitions requiring prior approval.* The recipient shall obtain prior approval from the grant officer for all purchases of nonexpendable personal property, that is, property having a unit acquisition cost of $500 or more and a useful life of more than 2 years. The recipient may request approval by itemizing such purchases in the grant or agreement application prior to award or by submitting written requests for approval of such purchases during the grant or agreement period.

* * * * *

6. Sections 29–70.216, 29–70.216a, and 29–70.216b, covering Federal procurement standards and required provisions in DOL recipient contracts, are revised and presented in full text as follows:

§ 29–70.216 Procurement standards; required provisions for recipient contracts.

§ 29–70.216–1 Purpose and applicability.

(a) This section provides minimum Federal standards for procurement systems, procedures, and contract provisions used by a DOL recipient (or subrecipient—see § 29–70.101(b)(2)) in obtaining supplies, equipment, construction, and other services (including research and development) needed to carry out a grant or agreement where the costs will be either a direct charge to the grant or agreement or will be counted in satisfying a matching requirement. The recipient shall ensure that its contractors apply to their procurement those elements of this section which are required to be passed through to the contractor to enable the recipient to be in compliance with Federal standards, e.g., provisions required by § 29–70.216–13.

(b) Except as otherwise stated, this section does not apply to the award of, or to provisions required in subgrants or subagreements awarded to eligible entities described in § 29–70.101(b) to carry out a part of the substantive programmatic work of the grant.

(c) Section 29–70.216–13 prescribes provisions which the recipient must include in its contracts.

§ 29–70.216–2 Recipient's procurement responsibilities.

These standards shall not relieve the recipient of contractual or administrative responsibilities under its contracts. As the responsible authority for the successful accomplishment of a project undertaken pursuant to a grant or agreement, the recipient shall be responsible for all aspects of administering procurements in support of its grant or agreement including—Soliciting offers and bids, evaluating responses, selecting contractors, and awarding contracts; handling disputes, claims, and protests of award; and handling all other matters of a contractual nature in accordance with good administrative practice, sound business judgment, Federal requirements, and applicable State and local laws. The recipient shall refer matters concerning violation of law to the Federal, State, or local authority which has proper jurisdiction. This does not prevent the recipient (or subrecipient through the recipient) from seeking advice from the DOL Agency concerning contractual issues. A DOL official shall not substitute his or her judgment for that of a recipient unless the matter is primarily a Federal concern.

§ 29–70.216–3 Procurement systems and procedures.

If a grant or agreement provides for or allows procurement, the recipient may use its own procurement systems and procedures which reflect applicable State and local laws, rules, and regulations to the extent that the systems and procedures do not conflict with the DOL standards set forth in this section; applicable Federal statutes, Executive Orders, or regulations; or terms of the grant or agreement. To the extent feasible, DOL Agency officials shall assist the recipient to improve recipient procurement capabilities by providing technical assistance, training, publications, and other aid.

§ 29–70.216–4 Procurement system reviews.

(a) A DOL Agency may, in accordance with standards and guidelines issued or approved by the Office of Federal Procurement Policy (OFPP), review a recipient's (or a prospective recipient's) procurement system. Reviews should be undertaken if:

(1)(i) There is likely to be a continuing relationship with a recipient; or

(ii) The recipient is to use a substantial amount of the Federal assistance provided for procurement; and

(2) A current procurement system certification or report of findings resulting from another Federal agency review is not available. (Unless there are specific, urgent reasons for doing otherwise, DOL Agencies will accept the findings or certification of another Federal agency for a period of 24 months from the date of the certification or report.)

(b) The purposes of making the review are:

(1) To determine whether a recipient's (or prospective recipient's) procurement system and operations meet the standards of this section and other acceptable criteria established by the OFPP in its review standards and guidelines, such as provisions of the Model Procurement Code for State and Local Governments developed by the American Bar Association;

(2) If a recipient's (or prospective recipient's) procurement system and operations meet the OFPP standards, to certify approval of the procurement system. Certification of the system will exempt the recipient's or prospective recipient's procurement under a DOL grant or agreement from prior DOL approvals required by § 29–70.216–6 for a period of 24 months from the certification date. This does not relieve the recipient from the Federal procedural requirements set forth in § 29–70.216–8; and

(3) If a recipient's (or prospective recipient's) procurement system and operations do not meet the OFPP standards, to prepare a report on deficiencies identified during the review, and to the extent feasible, provide technical assistance to remedy shortcomings.

(c) Upon completing a procurement system review, the DOL Agency shall provide a copy of the certification or the report of findings to the recipient (or prospective recipient) and a copy to the Office of the Assistant Secretary for administration and Management

(OASAM) for further dissemination and coordination with the OFPP and other Federal agencies.

§ 29-70.216-5 DOL reviews—contractor selection protests.

(a) If a complaint is filed or a protest is made concerning the recipient's contractor selection activities, the recipient shall attempt to resolve the complaint or protest in accordance with its established procedures.

(b) A DOL Agency shall review a complaint or protest regarding recipient contractor selection procedures only if the complainant furnishes evidence that:

(1) All administrative remedies of the recipient have been exhausted (a decision by a recipient procurement appeals board or a determination by the head of a recipient procurement office would be considered evidence); and

(2) The complaint involves—

(i) A violation of Federal law or regulations (Complaints which involve violations of State or local law shall be under the jurisdiction of State or local authorities.);

(ii) A violation of the recipient's protest procedures; or

(iii) Failure by the recipient to review a complaint or protest.

§ 29-70.216-6 Required prior grant officer approvals.

(a) The recipient need not obtain prior grant officer review and approval of proposed contracts and related procurement documents such as requests for proposals and invitations for bids if the DOL Agency certifies approval of the recipient's procurement system and operations following a DOL review or by accepting a current certification by another Federal agency (see § 29-70.216-4).

(b) A recipient whose procurement system is not currently certified shall obtain prior grant officer review and approval of the following proposed contracts and related documents, such as requests for proposals and invitations for bids, under the following circumstances:

(1) The procurement is expected to exceed $10,000 and is to be awarded without obtaining competition, except in cases of public exigency or emergency pursuant to § 29-70.216-9(d)(2);

(2) The procurement is expected to exceed $10,000 and, in response to the solicitation, only one bid or offer has been received (see § 29-70.216-9(d));

(3) The procurement is expected to exceed $10,000 and specifies a "brand name" product; or

(4) The recipient's procurement procedures or operations do not meet the standards of this section. In this circumstance, the DOL Agency shall notify the recipient concerning the deficiency, and shall provide a copy of the notification to the Office of Federal Procurement Policy.

§ 29-70.216-7 Recipient code of conduct.

The recipient shall avoid conflicts of interest, real or apparent, by observing the following requirements:

(a) The recipient shall maintain a written code or written standards of conduct which will govern the performance of its officers, employees, or agents in contracting with or otherwise procuring supplies, equipment, construction, or services with Federal funds under a DOL grant or agreement. These standards shall provide that no officer, employee, or agent shall:

(1) Solicit or accept gratuities, favors, or anything of monetary value from suppliers or potential suppliers, including subcontractors under recipient contracts; or

(2) Participate in the selection, award, or administration of a procurement supported by DOL funds (subject to this section) where, to the individual's knowledge, any of the following has a financial or other substantive interest in any organization which may be considered for award—

(i) The officer, employee, or agent;

(ii) Any member of his or her immediate family;

(iii) His or her partner; or

(iv) A person or organization which employs, or is about to employ, any of the above.

(b) To the extent permitted by State or local law or regulations, recipient standards shall provide for penalties, sanctions, or other disciplinary actions (such as suspension, termination, or civil action to recover money damages) to be applied for grant or agreement related violations of law or established standards of conduct by recipient officers, employees, or agents, or by contractors or their agents.

§ 29-70.216-8 Procedural requirements.

The recipient shall establish procurement procedures which provide for the following minimum requirements:

(a) *Procurement alternatives.* The recipient shall review proposed procurement actions to consider consolidating or breaking out requirements for greater economy and to avoid purchasing unnecessary or duplicative items; and, where appropriate, shall analyze lease versus purchase or other alternatives to determine which alternative provides for the best use of Federal funds. State and local government recipients are urged to enter into intergovernmental agreements for procurement or uses of common goods and services.

(b) *Small, minority, and women's businesses, and labor surplus area suppliers.* (1) The recipient shall ensure that small, minority, and women's businesses are used as sources of supplies, equipment, construction, and services whenever possible by:

(i) Establishing and maintaining solicitation mailing lists which include small, minority, and women's businesses;

(ii) Soliciting small, minority, and women's businesses whenever they are potential sources;

(iii) When economically feasible, dividing total requirements into smaller units to permit maximum participation by small, minority, and women's businesses;

(iv) If the requirement permits, establishing delivery schedules which will encourage small, minority, and women's businesses to participate.

(v) When needed, using the services and assistance of the Small Business Administration, the Minority Business Development Agency in the Department of Commerce, and the Community Services Administration.

(2) The recipient shall require that any contractor performing under its grant or agreement take the above affirmative steps with respect to the use of small, minority, and women's businesses as sources of supplies, equipment, construction, and services.

(3) The recipient is also encouraged to utilize sources located in areas designated as labor surplus areas by the Secretary of Labor.

(c) *Selection procedures.* (1) *Competition requirements.* Except as otherwise authorized by Federal law (see § 29-70.216-8(c)(2)), the recipient shall conduct all procurement transactions, regardless of dollar amount or method used (formal advertising or negotiation), in a manner that provides for maximum open and free competition, and shall use no procedures which restrict or eliminate competition. The extent of competition sought shall be consistent with the dollar amount of the award. Examples of factors which might be considered restrictive include, but are not limited to: (i) Imposition of unreasonable requirements on a potential supplier in order to qualify to do business with a recipient such as unnecessary experience or bonding requirements; (ii) organizational conflicts of interest; or (iii) noncompetitive practices among potential suppliers.

(2) *Federal statutes authorizing preferential treatment.* A recipient may

use preferential procurement procedures if, and to the extent that, they are prescribed or authorized by applicable Federal statute or Executive Order.

(i) The following Federal laws, either specifically or by intent, provide authority for a recipient to use grant or agreement funds to benefit specific ethnic or target population groups or specific geographic areas:

(A) Section 7(b)(2) of the Indian Self-Determination and Education Assistance Act requires that any Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians shall require to the greatest extent feasible—

(2) preference in the award of subcontracts and subgrants . . . shall be given to Indian organizations and to Indian-owned economic enterprises . . .

(B) The Comprehensive Employment and Training Act (CETA) provides for certain programs which have, as their primary purpose, job opportunities for target population groups in specific geographic areas (see § 29–70.216b and 20 CFR 676.23). (CETA, sec. 123(1))

(ii) If a recipient is authorized, in accordance with § 29–70.216–8(c)(2)(i), to use preferential procurement, the DOL Agency may require that the recipient submit proposed procedures for prior review and approval. In addition, the DOL Agency shall periodically review such procedures to ensure that they—

(A) Conform to Federal, State, and local law, and applicable regulations;

(B) Promote program goals and comply with the Federal statute authorizing the procedures;

(C) Provide for recipient cost or price analysis to ensure that costs are reasonable and that Federal funds are expended in accordance with good business practice; and

(D) Provide for maximum competition within the authorized limitations unless a noncompetitive procurement can be justified in accordance with § 29–70.216–9(d).

(iii) Approval of a grant or agreement application which includes planned preferential procurement practices shall constitute approval of use of the procurement practices.

(3) *Recipient contractor selection procedures.* The recipient shall maintain written contractor selection procedures under which the solicitation document for either a formally advertised (sealed bid) or a competitively negotiated procurement shall:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. In competitive procurements, the description shall not contain features which unduly restrict competition. The description may include a statement concerning the qualitative nature of the material, product, or service being procured and, when necessary, shall set forth the minimum essential characteristics and standards to which it must conform to satisfy its intended use. The recipient shall avoid using detailed product specifications if at all possible. When it is impractical or uneconomical to develop a clear and accurate description of the technical requirements, the recipient may use a "brand name or equal" description to define performance or other salient requirements of a procurement. The solicitation shall clearly state the specific features of a name brand which an offeror's or bidder's material, product, or service must possess to be considered acceptable.

(ii) Clearly set forth all requirements which offerors or bidders must fulfill and all other factors which the recipient will use in evaluating bids or proposals. In this regard, a recipient that is a State (or State agency or organization, if applicable) shall require that a bidder or offeror furnish information demonstrating compliance with any applicable mandatory standard or policy relating to energy efficiency and conservation which is contained in the State energy conservation plan issued pursuant to the Energy Policy and Conservation Act (Pub. L. 94–163).

(d) *Contract award.* The recipient shall make an award only to a responsible contractor as defined in § 29–70.102.

§ 29–70.216–9 Methods of procurement.

The recipient shall accomplish its procurement by using, as appropriate to the dollar amount, nature of the procurement, and available offerors or bidders, one of the following procurement methods:

(a) *Small purchase method.* The recipient shall use the small purchase method (see § 29–70.102) involving relatively simple informal procedures that are sound and appropriate if a procurement costs, in the aggregate, not more than $10,000 or "small purchase" dollar limit of less than $10,000 when prescribed by State or local government. The recipient shall obtain price or rate quotations from an adequate number of qualified sources to ensure reasonable competition.

(b) *Formal advertising (sealed bid) method.* (1) The recipient shall use the formal advertising (sealed bid) procurement method (see § 29–70.102) if, as a minimum, the following conditions are present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible (see "responsible contractor" definition in § 29–70.102) suppliers are willing and able to compete effectively for the award; and

(iii) The procurement lends itself to a firm fixed-price contract, and contractor selection based principally on price is appropriate.

(2) In formally advertised procurements, the recipient shall:

(i) Solicit bids by issuing an "invitation for bids" to known suppliers and by publicly advertising the invitation, allowing sufficient time prior to the date of bid opening to permit adequate responses;

(ii) In the invitation for bids (including specifications and attachments), clearly define the items or services needed to enable bidders to respond properly;

(iii) Open all bids publicly at the time and place stated in the invitation for bids; and

(iv) Award a firm fixed-price contract (lump sum or unit price) by written notice to the responsible bidder whose bid, conforming to the invitation for bids, is lowest in price. The recipient shall consider factors such as discounts, transportation costs, and life cycle costs if the invitation for bids provides for their consideration. The recipient may use payment discounts to determine the low bid only if prior recipient experience indicates that such discounts are generally taken.

(3) The recipient may reject any or all bids when there are sound, documented business reasons in the best interest of the program.

(c) *Competitive negotiation method.* (1) The recipient shall use the competitive negotiation method (see § 29–70.102) if the following conditions are present:

(i) The nature of the item or service needed precludes developing a specification or a purchase description so precise that all interested parties have an identical understanding of the requirement;

(ii) In addition to price, other factors will be considered in making an award; and

(iii) Two or more responsible suppliers are willing and able to compete effectively for the award.

(2) When using the competitive negotiation method, the recipient shall:

(i) Solicit offers by distributing Requests for Proposals (RFPs) (see § 29–70.102) to an adequate number of qualified sources to ensure competition

(generally sources included on recipient source lists), and by publicizing the RFP and honoring requests for copies of the RFP to the maximum extent practicable;

(ii) Ensure that the RFP identifies all significant evaluation factors, including cost or price, and the relative importance of each;

(iii) Provide mechanisms for making technical evaluations of proposals received and determinations of responsible offerors for the purpose of holding written or oral discussions; for conducting negotiations with offerors deemed to be in the competitive range (offerors whose proposals, when evaluated, are believed to have a reasonable chance of being selected for award); and for selecting the contractor; and

(iv) Award the contract to the responsible offeror whose proposal will be most advantageous to the recipient, price and other factors considered; and notify unsuccessful offerors of the award.

(3) The recipient may utilize competitive negotiation procedures for procurement of Architectural/Engineering professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

(d) *Noncompetitive negotiation method.* (1) The recipient may use the noncompetitive negotiation method (see § 29–70.102) under the following circumstances when use of the small purchase, competitive sealed bid (formal advertising), or competitive negotiation method is not feasible:

(i) If a public exigency or emergency exists and the urgency of the requirement will not permit a delay incident to obtaining competition;

(ii) If the item is available from only a single source; or

(iii) If, after soliciting a number of sources, competition is deemed inadequate.

(2) Unless the recipient's procurement system has been certified in accordance with § 29–70.216–4, the recipient shall obtain prior grant officer approval for noncompetitive negotiated procurements expected to exceed $10,000 (see § 29–70.216–6(b)) which were not identified in the approved grant or agreement budget except for procurements made in cases of public exigency or emergency under § 29–70.216–9(d)(1)(i). In such cases (of public exigency or emergency), the recipient shall document the circumstances under which the procurement was made and shall notify the grant officer as soon thereafter as possible.

(e) *Other procurement methods.* The recipient may use other innovative procurement methods after obtaining prior approval of the grant officer. A DOL Agency approving such a method shall send a copy of the approval to the OFPP.

§ 29–70.216–10 Contract pricing.

(a) The recipient shall make a price or cost analysis (as appropriate to the kind of contract) with every procurement action, including contract modifications. The recipient may perform a price analysis by making a comparison among price quotations submitted, or by comparing price quotations submitted with current market prices (considering discounts, if appropriate). The recipient shall perform a cost analysis by reviewing and evaluating each element of costs submitted to determine its reasonableness, allocability to work undertaken under the procurement, and allowability under applicable Federal cost principles.

(b) The DOL Agency shall allow costs or prices based on estimated costs for recipient contracts only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with terms of the grant or agreement and applicable Federal cost principles.

(c) The recipient shall not use a cost-plus-a-percentage-of-cost or percentage-of-construction-cost contract.

§ 29–70.216–11 Recipient procurement records.

The recipient shall maintain files and other records sufficient to detail the significant history of a procurement. Files and other records for procurements using other than small pruchase procedures shall include as a minimum: rationale for procurement method used and any required justifications for the use of noncompetitive procurement, the basis for the selection of contract type, required grant officer approvals, the basis for contractor selection or rejection, and the basis for the award cost or price.

§ 29–70.216–12 Recipient contract administration.

The recipient shall maintain a system for contract administration to ensure that contractors and other suppliers comply with terms, conditions, and performance requirements of contracts (including purchase orders), and to ensure adequate and timely completion of all transactions.

§ 29–70.216–13 Content and provisions of recipient contracts.

(a) *General.* Except for small purchases (purchases of $10,000 or less—see § 29–70.216–9(a)), the recipient shall award a contract through a bilaterally executed written agreement which includes all provisions needed to define a sound and complete agreement. The recipient shall include in the written agreement the price or estimated cost, method of payment, scope and extent of work, period of performance, and other information pertinent to the particular procurement.

(b) *Required general provisions.* In addition, the recipient shall include, in each contract exceeding $10,000, the following provisions, and shall require that its contractors include the provisions in their subcontracts exceeding $10,000:

(1) A provision which will allow for administrative, contractual, or legal remedies if the contractor violates or breaches terms of the contract; and which provides for appropriate sanctions and penalties.

(2) A provision for termination of the contract for default; and for termination because of circumstances beyond the control of the contractor. The provision shall include conditions under which termination actions will be taken, the manner of taking such actions, and the basis for settlement.

(3) Except for a formally advertised contract awarded on a fixed price basis, a provision that the contractor shall maintain adequate records related to work under the grant or agreement program; and shall make available to the recipient, the Secretary of Labor, the Comptroller General of the United States, or any duly authorized representative, any books, documents, papers, and records which are pertinent to that specific contract for the purpose of making audits, examinations, excerpts, and transcriptions. Contract records shall be retained for a period of 3 years after final payment is made to the contractor and all other pending matters are closed. "Pending matters" include, but are not limited to, an audit, litigation, or other action involving the records.

(4) A provision that the contractor will take the following actions to ensure that small, minority, and women's businesses shall have the maximum practicable opportunity to participate in the performance of the contract:

(i) Include small, minority, and women's businesses on source lists and assure that they are solicited whenever they are potential sources;

(ii) Divide total requirements into smaller requirements to permit maximum small, minority, and women's business participation whenever economically feasible; and

(iii) Use the services and assistance of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the Community Services Administration, as required.

(5) All other provisions of the grant or agreement which flow down and are applicable to a recipient contract.

(6) *Executive Order 11246—Equal Employment Opportunity.* In addition to the above, the recipient shall include the following equal employment opportunity clause (prescribed in 41 CFR 60–1.4) in all contracts and shall require that its contractors include the clause in their contracts which have, or are expected to have, an aggregate value within a 12-month period exceeding $10,000:

Equal Opportunity

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, color, religion, sex, 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 contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of the Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the contractor becomes involved in, or is threatened with, litigation which a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(c) *Special provisions.* The recipient shall include any or all of the following provisions in contracts requiring their inclusion, as indicated in the following paragraphs:

(1) *Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.)* or amendments thereto.

The recipient shall include the following certification and provision in any solicitation and resulting contract in excess of $100,000:

(i) *Certification:*

Clean Air and Water Certification

The bidder or offeror certifies as follows:

(a) Any facility to be utilized in the performance of this proposed contract has ☐, has not ☐ been listed on the Environmental Protection Agency (EPA) List of Violating Facilities.

(b) It will promptly notify the recipient, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that any facility which it proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities.

(c) It will include substantially this certification, including this paragraph (c), in every nonexempt subcontract.

(ii) *Provision:*

Clean Air and Water

(a) The contractor agrees as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract.

(2) That no portion of the work required by this contract will be performed in a facility listed on the EPA List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use its best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed.

(4) To insert the substance of the provisions of this clause into any nonexempt subcontract, including this paragraph (a)(4).

(b) The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1857c–5(d)), an approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. 1857c–6 (c), or (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c–7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the EPA or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the EPA or an air or water pollution control agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, to be utilized in

the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, EPA, determines that independent facilities are collocated in one geographical area.

(2) *Patents and copyrights.* If the contract involves research, development, experimental, or demonstration work, the contract shall include a provision setting forth DOL requirements and regulations pertaining to:

(i) Reporting and patent rights with respect to any discovery or invention which arises or is developed in the course of or under the contract; and

(ii) Copyrights and rights in data. The provision shall be consistent with the requirements of § 29–70.215–9 concerning intangible personal property.

(3) *Contract Work Hours and Safety Standards Act (40 U.S.C. 327–332).* (i) If the grant or agreement is under a statute providing wage standards for such work, the recipient shall include the provision described in paragraph (c)(3)(iii) in any nonconstruction contract which involves the employment of mechanics and laborers (including watchmen, guards, apprentices, and trainees) if the contract exceeds $2,500.

(ii) The requirements of the Act do not apply to contracts for transportation or transmission of intelligence, to contracts under which work is to be performed solely within a foreign country, to contracts for the purchase of supplies or materials or articles ordinarily available on the open market, or to work where the DOL assistance is in the form of a loan guarantee or insurance.

(iii) The provision covering overtime requirements for nonconstruction contracts (for construction contracts, see § 29–70.216–13(d)(4)) shall be substantially the same as the following provision as set forth in 29 CFR 5.5 (c) and (e):

Contract Work Hours and Safety Standards Act—Overtime Compensation

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his or her basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, as the case may be.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in subparagraph (1), the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his or her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the clause set forth in subparagraph (1), in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1).

(3) *Withholding for unpaid wages and liquidated damages.* The Department of Labor may withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2).

(4) *Subcontracts.* The contractor shall insert in any subcontracts the clauses set forth in subparagraphs (1), (2), and (3) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(5) *Records.* The contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for 3 years from the completion of the contract.

(d) *Provisions—construction contracts.* The recipient shall include the following provisions in construction contracts if applicable:

(1) *Bonding requirements.* In awarding contracts for construction or facility improvement, the recipient shall require that contractors observe the bonding requirements of § 29–70.202–2(a).

(2) *Prevailing wage requirements in accordance with the Davis-Bacon Act (40 U.S.C. 276a–276a–7).* When required by the Federal program legislation, the recipient shall include in contracts in excess of $2,000 for construction, alteration, and/or repair, including painting and decorating, of a building or work financed in whole or in part with Federal funds, a provision requiring compliance with the Davis-Bacon Act prevailing wage requirements, as implemented by DOL regulations (29 CFR, Parts 1 and 5). In addition, the recipient shall obtain from the DOL (through the nearest Wage-Hour area or regional office) and shall include in each solicitation and resulting contract, a copy of the current prevailing wage determination issued by the DOL. The recipient shall condition the award of such a contract upon the contractor's acceptance of the wage determination. (Contractors subject to the Act are required to pay not less often than once a week, minimum wages, including fringe benefits, to mechanics and laborers engaged in construction activity, based on the determinations by the Secretary of Labor of wage rates and fringe benefits prevailing for the corresponding classes of mechanics and laborers employed on similar projects in the same locality.) The recipient shall report all suspected or reported violations to the responsible DOL Agency; and shall include a provision, as set forth in 29 CFR 5.5(a), in all contracts or subcontracts subject to the Act:

(1) *Minimum wages.* (i) All mechanics and laborers employed or working upon the site of the work, or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision shall be posted by the contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv). Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

(ii) The recipient shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination and a report of the action taken shall be sent by the recipient to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees to be used, the question accompanied by the

recommendation of the recipient shall be referred to the Secretary for final determination.

(iii) The recipient shall require, whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the recipient, shall be referred to the Secretary of Labor for determination.

(iv) If the contractor does not make payments to a trustee or other third person, it may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: *Provided, however,* The Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) *Withholding.* The Department of Labor may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the contractor or any subcontractor on the work the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice or trainee, employed or working on the site of the work or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project, all or part of the wages required by the contract, the Department of Labor may, after written notice to the contractor or the recipient, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) *Payrolls and basic records.* (i) Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work, or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project. Such records will contain the name and address of each such employee, his or her correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and the records which show the costs anticipated or the actual costs incurred in providing such benefits.

(ii) The contractor will submit weekly a copy of all payrolls to the Department of Labor (DOL) if the DOL is a party to the contract, but if the DOL is not such a party, the contractor will submit the payrolls to the recipient for transmission to the DOL. The copy shall be accompanied by a statement signed by the employer or his or her agent indicating that the wage rates contained therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work to be performed. A submission of a "Weekly Statement of Compliance" which is required under this contract and the Copeland regulations of the Secretary of Labor (29 CFR, Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under 29 CFR 5.5(a)(1)(iv) shall satisfy this requirement. The recipient shall be responsible for the submission of copies of payrolls of all recipient contractors and subcontractors. The contractor will make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of the recipient and the DOL, and will permit such representatives to interview employees during working hours on the job. Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the recipient that their employment is pursuant to an approved program and shall identify the program.

(4) *Apprentices and trainees.* (i) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to its entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subdivision (ii) of this subparagraph or is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work actually performed. The contractor or subcontractor will be required to furnish to the recipient or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of its program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the area of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination.

(ii) *Trainees.* Except as provided in 29 CFR 5.15, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his or her level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work actually performed. The contractor or subcontractor will be required to furnish the recipient or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of its program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(5) *Compliance with Copeland Regulations (29 CFR Part 3).* The contractor shall comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference.

(6) *Subcontracts.* The contractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (5) and (7) and such other clauses as the Department of Labor may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(7) *Contract termination; debarment.* A breach of clauses (1) through (6) may be

grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

(3) *Copeland (Anti-Kickback) Act (40 U.S.C. 276c and 18 U.S.C. 874).* The recipient shall include in all contracts in excess of $2,000 for construction, completion, or repair of public buildings, public works, or buildings or works financed in whole or in part by Federal funds, a provision prescribed in 29 CFR 5.5(a)(5), as set forth in § 29–70.216–13(d)(2), requiring compliance with the Copeland Act. The contractor or subcontractor shall submit payrolls and a statement of compliance weekly to the recipient for transmittal to the DOL pursuant to 29 CFR 3.3 and 3.4. The Copeland Act prohibits illegal deductions or kickbacks of wages to which employees are otherwise entitled. The recipient shall report all suspected or reported violations to the DOL.

(4) *Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333).* If the grant or agreement is under a statute providing wage standards for such work, the recipient shall include a provision in all construction contracts in excess of $2,000 which involve the employment of mechanics or laborers, including watchmen, guards, apprentices, and trainees. The provision shall be substantially the same as the provision set forth in § 29–70.216–13(c)(3) except that, if the contract is subject to the Davis-Bacon Act, the following paragraph required by Section 107 of the Contract Work Hours and Safety Standards Act should be substituted for paragraph (5) of the provision in § 29–70.216–13(c)(3):

(5) The contractor shall not require a laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health and safety.

(5) *Executive Order 11246—Equal Employment Opportunity.* The recipient shall include or require the inclusion of the clause required in § 29–70.216–13(b)(6) and the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) required in 41 CFR 60–4.3(a) in all nonexempt contracts or subcontracts involving federally assisted construction. In addition, a recipient whose grant or agreement involves federally assisted construction agrees that:

It will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the recipient so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

It will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

It will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, as amended, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the recipient agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the recipient under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such recipient; and refer the case to the Department of Justice for appropriate legal proceedings.

§ 29–70.216a Procurement standards—special requirements, nonprofit organizations.

§ 29–70.216a–1 Special requirements.

The standards of § 29–70.216 apply to a recipient that is nonprofit organization with the following exceptions:

(a) *Procurement system reviews.* Section 29–70.216–4, which sets forth a procedure for review and certification of a recipient's procurement system, does not apply. Nevertheless, a DOL Agency may require that a recipient or prospective recipient submit its procurement procedures for DOL review prior to or subsequent to the grant or agreement award.

(b) *DOL reviews—contractor selection protests.* Section 29–70.216–5(b), which provides for DOL Agency review of a complaint or protest regarding recipient contractor selection procedures, does not apply. The recipient is the responsible authority without recourse to the DOL Agency regarding the settlement and satisfaction of all contractual issues arising out of procurements in support of the grant or agreement.

(c) *Required prior grant officer approvals.* Section 29–70.216–6(a), which waives the requirement for prior grant officer approval of proposed recipient contracts when a recipient has a federally certified procurement system (see § 29–70.216–4), does not apply. The recipient shall comply with § 29–70.216–6(b), which sets forth procurements for which prior grant officer approval is required.

(d) *Selection procedures—competition requirements.* To ensure objective contractor performance and eliminate unfair competitive advantage, the recipient shall not allow a bidder or offeror who has developed specifications, the statement of work, the invitation for bids, or the request for proposals to compete for the resulting contract.

(e) *Methods of procurement.* A nonprofit organization whose procurement procedures do not provide for formal advertising (as described in § 29–70.216–9(b)) shall ensure that procedures used provide for maximum competition and for the award of a contract to the bidder or offeror whose bid or offer is responsive to the solicitation and most advantageous to the recipient, price and other factors considered. The recipient may reject any or all bids or offers when it is in the recipient's interest to do so, and when such rejections are in accordance with applicable State and local law, rules, and regulations.

(f) *Type of procuring instrument.* The recipient shall use the type of procuring instrument (e.g., purchase order, fixed-price contract, cost-reimbursement contract, incentive contract) which is appropriate to the particular procurement and is in the best interest of the grant or agreement program.

§ 29–70.216b Procurement standards—CETA requirements.

§ 29–70.216b–1 Special CETA standards.

The procurement standards and requirements of § 29–70.216 and § 29–70.216a apply to CETA recipient procurement with the following exceptions and modifications:

(a) *On-the-job (OJT) training contracts, subgrants, and subagreements.* The following special procedures apply in awarding and administering on-the-job training contracts, subgrants, or subagreements:

(1) *Competition.* The recipient may make awards for on-the-job training of program participants without obtaining competition if the contracts, subgrants, or subagreements provide that an

employer-employee relationship will exist between the contractor or subrecipient and the program participant; and that the contractor or subrecipient will provide job training to enable the participant to perform effectively as a regular employee of the contractor's or subrecipient's (or another employer's) establishment. When such awards are made, the recipient shall maintain a record of the awards and, if requested, shall furnish the grant officer with the record which includes the contractor's or subrecipient's name, award amount, and services to be performed (CETA, sec. 121(o)).

(2) *Required provisions.* Program regulations at 20 CFR 676.25–2 and 676.38 implement the statutory requirement (CETA, sec. 121(o)) that provisions for contracts, subgrants, or subagreements for OJT and for Title VII programs be kept to a minimum, *Provided,* That the award document includes all provisions needed to define a sound and complete agreement and any provision required by applicable Federal law.

(b) *List of potential contractors and subrecipients.* A recipient which is a prime sponsor shall maintain a list of potential recipient contractors or potential subrecipients who have expressed (in writing) an interest in being considered for awards (see 20 CFR 676.23). The list will include names, addresses, and products or services offered. The recipient shall establish methods and criteria for using the list; and the list shall be considered to be public information (CETA, sec. 103(a)(3)(B)).

(c) *Preferential contractor and subrecipient selection procedures.* In addition to the provisions of § 29–70.216–8(c) regarding preferential procurement procedures, the following applies:

(1) *Community-based organizations of demonstrated effectiveness.* A CETA recipient shall, in awarding contracts, subgrants, or subagreements, give special consideration to community-based organizations of demonstrated effectiveness in accordance with 20 CFR 676.23 (CETA, sec. 123(l)).

(2) *Minority, small, and women-owned businesses.* In addition to the procedural requirements set forth in § 29–70.216–8(b), that the recipient provide opportunities for small, minority, and women-owned businesses to participate in its procurement, 20 CFR 676.37(d) provides that recipients may, when appropriate, ensure participation through minority and small business set-asides (CETA, sec. 122(k)).

(d) *Ineligible applicants for awards.* Program regulations at 20 CFR 676.62(c) provide that no nongovernmental individual, institution, or organization is eligible to receive a recipient contract, subgrant, or subagreement, or to be otherwise engaged to evaluate a CETA program, if the individual, institution, or organization is associated with the program as a consultant, technical advisor, or in any similar capacity (CETA, sec. 121(h)(1)).

(e) *Labor standards provisions—construction contracts and subcontracts.* The provisions set forth in § 29–70.216–13(d)(2) covering the prevailing wage requirements of the Davis-Bacon and related Acts apply to CETA recipient contracts and subcontracts as stated in § 29–70.104(b) and in 20 CFR 676.26.

(f) *CETA regulations.* Detailed requirements for CETA recipient procurement are set forth in CETA program regulations at 20 CFR 676.37 and 20 CFR 676.38.

(5 U.S.C. 301; 29 U.S.C. 801 et seq.; 29 U.S.C. 795; 30 U.S.C. 801 et seq.; 29 U.S.C. 651 et seq.; 42 U.S.C. 3011 et seq.; 42 U.S.C. 501 et seq., 1101 et seq., 1321 et seq.; 29 U.S.C. 49 et seq., OMB Circular No. A–102; OMB Circular No. A–110)

Signed at Washington, D.C. on this 10th day of December 1980.

Alfred M. Zuck,

Assistant Secretary for Administration and Management.

[FR Doc. 80–39059 Filed 12–1–80; 8:45 am]

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federal register

Tuesday
December 16, 1980

Part III

Department of Health and Human Services

Public Health Service

Indian Health; Persons To Whom Services Will Be Provided

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

Indian Health; Persons To Whom Services Will Be Provided

AGENCY: Department of Health and Human Services.

ACTION: Notice or proposed rulemaking.

SUMMARY: This notice proposes two changes in current regulations (42 CFR 36.12) governing who will be considered eligible for services from the Indian Health Service (IHS)—

1. A "common sense" revision of format;

2. A substantive change in the eligibility of non-Indians for health services. This latter change would expand eligibility to include the non-Indian spouse (husband or wife) of an eligible Indian residing in the Indian's household instead of only the non-Indian wife. In addition, the proposal would include in limited cases other non-Indians residing in the household of an eligible Indian, and the non-Indian surving spouse who continues to live in the Indian community and does not remarry an ineligible person.

DATES: Comments on the proposed rule must be received on or before February 17, 1981. In addition, public meetings will be held in each of the IHS areas at which the public will be invited to express their views. These public meetings will be advertised locally and held during the period from the date of publication of this notice to February 17, 1981.

ADDRESS: Address written comments to: Mr. Richard J. McCloskey, Indian Health Service, Room 6A–20, 5600 Fishers Lane, Rockville, Maryland 20857. Comments will be available for public inspection at this address from 8:30 a.m. to 5:00 p.m. beginning approximately 2 weeks after publication of this notice. The public meetings will be held at times and locations which will be announced by the local IHS Area or Program Office.

FOR FURTHER INFORMATION CONTACT: Richard J. McCloskey, Indian Health Service, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1116.

SUPPLEMENTARY INFORMATION: Except in emergencies or by special statutory provision, non-Indians may be served by the IHS only as an adjunct to carrying out the statutory authority to conserve the health of Indians [25 USC 13 (Snyder Act) and 42 USC 2001 (Transfer Act)]. Serving non-Indians under this authority is justified in those situations where the health of the non-Indian is so closely interrelated with the health of Indian persons that serving the non-Indian may be reasonably viewed as furthering the statutory purpose of conserving the health of Indians.

The current regulation published in 1956 extends eligibility to the non-Indian wife of an eligible Indian on the basis that her health is integral to the health of the rest of the family. In addition, an IHS manual provision specifies that non-Indian dependent members of an Indian's household are eligible for services. In practice, the IHS has served non-Indian stepchildren and adopted children of an eligible Indian under that provision.

The proposed amendment would update the regulation to eliminate discrimination based on sex and to include certain members of an eligible Indian's household. Under the proposal, the non-Indian spouse (husband or wife) of an eligible Indian residing in the Indian's household will be considered eligible. Also, under the proposal other non-Indian members of the Indian's immediate family who are residing with the Indian—that is stepchildren, adopted children, and the separated or divorced parent in the case of an Indian child—would be served because their health may be presumed closely related to the health of the Indian(s) in the family. Serving them may be reasonably viewed as furthering the statutory purpose of conserving the health of Indians.

Beyond the immediate family (mother, father and children), the proposed regulation does not attempt to specify other non-Indians residing in an eligible Indian's household who will be considered eligible. Instead the proposed regulation requires that the IHS medical officer in charge will determine if providing services to the non-Indian is necessary to conserving the health of Indians in that household. For example, the medical officer in charge might determine that serving a non-Indian will prevent the spread of communicable disease in the household or that serving a non-Indian may be essential to maintaining adequate child care in the household.

We do not propose using financial dependency as the criteria for eligibility. The IHS Manual (§ 2–1.2) in describing persons to whom services may be provided refers to non-Indian dependents of an eligible Indian residing in the Indian's household, but in practice this has meant only step-children and adopted children. No financial dependency test has been applied; nor would it be administratively feasible for the IHS to adopt such a test.

The proposed amendment also specifically extends eligibility for services to the non-Indian surviving spouse of an eligibile Indian who continues to live in the Indian community served and who has not remarried an ineligible person. This is in accord with a longstanding IHS practice to interpret the term "non-Indian wives" in the current regulation as including surviving wives in the above circumstances. Once again, we believe that there is a sufficient connection between the proposed policy and the statutory purpose of conserving the health of the Indians.

The proposed amendment also constitutes a "common sense" revision of the format of 42 CFR 36.12 as part of the Department of Health and Human Services (HHS) response to Executive Order No. 12044, "Improving Government Regulations." The HHS program is known as "Operation Common Sense" and has the goal of improving the clarity of the language used in regulations. No substantive change with respect to the eligibility of Indians for IHS services is made or intended.

Pending issuance of final regulations, the IHS will consider the non-Indian husband of an eligible Indian residing with the Indian as eligible for services despite exclusion of non-Indian husbands under the current regulation. This course of action will avoid discrimination based on sex pending issuance of the final rule.

The Office of Management and Budget (OMB) Circular A–95, Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects, is not applicable to this notice.

Dated: October 30, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: December 8, 1980.

Patricia Roberts Harris,

Secretary.

Title 42, Subpart B, Part 36, paragraphs (a) § 36.12, Code of Federal Regulations is revised to read as follows:

§ 36.12 Person to whom services will be provided.

(a) *Eligibility.* (1) You are eligible for available services, as medically indicated, if you are of Indian descent and belong to the Indian community served by the local facilities and program.

(i) Generally, an individual may be regarded as within the scope of the Indian health and medical service

program if he/she is regarded as an Indian by the community in which he/she lives as evidenced by such factors as: tribal membership, enrollment, residence on tax-exempt land, ownership of restricted property; active participation in tribal affairs; or other relevant factors in keeping with general Bureau of Indian Affairs practices in the jurisdiction.

(ii) In case of doubt as to whether an individual applying for care is within the scope of the program, the Medical Officer in Charge shall obtain from the appropriate Bureau of Indian Affairs officials in the jurisdiction information pertinent to his determination of the individual's continuing relationship to the Indian population group served by the local program.

(2) You are eligible for available services, as medically indicated, if you are (a) the non-Indian spouse of an eligible Indian and reside in the household of that eligible Indian; or (b) you are a non-Indian member of an eligible Indian's immediate family and reside in the household of that eligible Indian; or (c) you are the surviving non-Indian spouse of an eligible Indian and you continue to live in the community served by the local facilities and program and have not remarried a non-eligible individual.

(3) You may be eligible for available services, as medically indicated if you are a non-Indian residing in an eligible Indian's household and a medical determination is made by the Medical Officer in Charge that providing necessary services to you will aid in conserving the health of Indian(s) in that household. The determination will be a professional judgment based upon the individual circumstances of each case.

(b) *Emergency situations.* If the applicant's condition is such that immediate care and treatment are necessary, services shall be provided pending determination of eligibility.

(c) *Priorities for care and treatment among eligible individuals who are within the scope of the program.* When funds, facilities, or personnel are insufficient to provide the indicated volume of services, priorities for care and treatment between eligible individuals will be determined on the basis of:

(1) Their relative medical need, and;

(2) Their access to other arrangements for obtaining the necessary care.

[FR Doc. 80-38838 Filed 12-15-80; 8:45 am]

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federal register

Tuesday
December 16, 1980

Part IV

Environmental Protection Agency

Chemical Imports and Exports; Notification of Export

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 707

[OPTS 120001A; TSH-FRL 16525]

Chemical Imports and Exports; Notification of Export

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule outlines procedures for exporters to submit notifications to EPA under section 12(b) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2611(b). Section 12(b) requires these notices whenever certain regulatory actions have been taken under TSCA with respect to a chemical substance or mixture. The rule also outlines the procedures EPA will use in notifying foreign governments of such actions as required by section 12(b).

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Pesticides and Toxic Substances (TS–799), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, toll free: (800–424–9065), Washington, D.C.: (554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 12(b) of TSCA requires that any person who exports or intends to export a chemical substance or mixture for which submission of data is required under section 4 or 5(b), for which an order has been issued under section 5, for which a rule has been proposed or promulgated under section 5 or 6, or with respect to which an action is pending, or relief has been granted under section 5 or 7, must so notify the Administrator. Upon receipt of such notification, section 12(b) requires EPA to furnish the government of the importing country with:

1. Notice of the availability of data received pursuant to action under section 4 or 5(b), or
2. Notice of such rule, order, action, or relief under section 5, 6, or 7.

EPA issued interim guidance published in the **Federal Register** of June 7, 1978 (43 FR 24818) for submitting notice of export for chlorofluorocarbons (CFCs) and polychlorinated biphenyls (PCBs), the two chemicals regulated at that time under section 6. EPA proposed this rule to implement section 12(b) in general, and to immediately supersede the interim guidance for CFCs and PCBs, published in the **Federal Register** of October 2, 1979 (44 FR 56856). The comment period for this proposal ended December 31, 1979.

This rule applies to PCBs, CFCs, 2,3,7,8-TCDD (tetrachlorodibenzo-p-dioxin), asbestos—the chemicals presently subject to section 6 regulations—and any future substances or mixtures subject to appropriate section 4, 5, 6, or 7 actions.

Under this rule exporters are required to submit, for each affected chemical substance or mixture, a single notice each year for each country to which the chemical substance or mixture is exported. Notice must be submitted to EPA by letter and include the following: The name and address of the exporter, the name of the chemical substance or mixture, the date of export or intended export, the country of import, and the section of TSCA under which EPA has taken action. The Agency, in turn, will advise the government of the importing country about the U.S. regulatory action concerning the substance or mixture.

II. Issues and Public Comments

EPA received twelve comments from exporters, industry trade organizations, public interest groups, and a foreign government. Although only one foreign government formally commented on the proposed rule, the United Nations Environment Programme Governing Council decisions of 1977, 1978, and 1980 reflect other government's desires for full disclosure of information to importing nations.

Rulemaking Authority

Two industry comments stated that EPA does not have specific rulemaking authority under section 12(b) of TSCA.

It is clear that EPA does not have substantive rulemaking authority under section 12(b) of TSCA. However, these rules are not substantive rules. Rather they are procedural and interpretative rules. While Congress did not grant EPA general substantive rulemaking authority under TSCA, Congress did intend that EPA be able to issue such procedural and interpretative rules in order to implement the statute. This is made clear in the Report of the House Committee on Interstate and Foreign Commerce reporting H.R. 14032 in which the following comments were made:

> The bill contains specific grants of substantive rulemaking authority to the Administrator and the Committee does not intend that the Administrator have any substantive rulemaking authority which is not specifically granted. A general rulemaking authority is not needed to authorize the issue of procedural, interpretative, or similar administrative rules, consequently, such a provision is not included in the bill. (H.R. Rep. No. 1341, 94th Cong., 2nd Sess. 62 (1976); *reprinted in* Legislative History of the Toxic Substances Control Act, at 469 (1976)).

Scope of the Rule

In the proposed rule, EPA took the position that section 12(b) is primarily intended to alert and inform foreign governments, in a general manner, of hazards that may be associated with a chemical substance or mixture. The intended focus of the notice to foreign governments is the chemical substance or mixture and what EPA has done or found out about it, rather than specific export shipments from the United States. Therefore, EPA proposed that exporters only submit a single notice each calendar year for each country to which a regulated chemical substance or mixture is exported. Foreign governments would then be notified of the fact of export and the nature of the TSCA action.

Industry comments favored this approach. However, a public interest group and a foreign government disagreed. Their comments favored notice of each shipment.

This rule adheres to the approach proposed, instead of the "each shipment" approach. As noted in the proposed rule, the language of section 12(b) simply indicates that EPA is to notify the foreign government of domestic actions taken under TSCA, and does not say to do so in conjunction with each shipment. EPA believes that the purpose of the notice is to inform foreign governments of U.S. findings rather than to provide the basis for stopping individual shipments. The focus of the notice should therefore be to provide information to the foreign governments so that they may impose their own regulatory controls if appropriate. In addition, section 12(b) appears to limit the information that can be required from exporters. It is doubtful that the Agency can require from exporters the full scope of information necessary to make each-shipment notices useful. It is also questionable how useful such notices would be to the foreign government without similar export notices and data from other countries. However, EPA will provide, if requested, any information it possesses on individual shipments, including exporter identity, unless such information is claimed confidential. If the exporter's name is not confidential, the foreign government could then contact the exporter to obtain more specific information on a given shipment.

Intent To Export

The proposed rule defined "intent" to export as having a definite contractual obligation to export. An industry comment asserted that this definition is not adequate for exports to foreign distribution centers owned by the exporting company. In such cases, there is no specific contractual obligation to export as there would be between two separate business entities. They suggest that, in such cases, the exporter file a single notice at the beginning of each calendar year. The notice would be based on the history of past shipments or their own business planning and could cover all projected exports of affected substances to all affected countries.

EPA believes that the definition of intent can be clarified to cover the case of exports to a company's foreign distribution center. Section 707.65(a)(3) (proposed § 707.3(a)(3)) has been changed to read "a definite contractual obligation to export *or an equivalent intra-company agreement*". A non-specific intention to export based on past business practices or a general expectation of continued demand for a substance is not an acceptable trigger for a notice. EPA is attempting to ensure that notices to foreign governments are meaningful by reflecting an actual export to that country, rather than only a potential export that may never occur.

Timing of Notice Submittal

The proposed rule allowed for a notice of *either* actual export or intent to export to be submitted no later than seven days after export. A public interest group disagreed with this approach. They objected to allowing export reporting after the fact and said that intent to export obviously precedes actual export. They argued that notification will be more valuable to the receiving country if it is received prior to export and asserted that the proposed approach would not yield such early notification to the receiving country.

EPA believes that this comment has merit and the rule will now generally require notification early in the export process. However, the Agency has not excluded reporting of actual exportation. Instances could arise where it would be impossible for exporters to comply, in a practical sense, with an exclusive requirement for advance notice. For example, exporters may receive orders for a substance with such a short turnaround time that shipment would need to be held up in order to submit notice of intent to export. Therefore, to require only advance notice of shipment would be inconsistent with what section 12(b) provides and would potentially, needlessly disrupt normal business transactions and trade patterns.

The Agency shares the commenter's desire to receive timely export notices, and thus notify foreign governments as early as possible. The final language of § 707.65 (proposed § 707.3) has been changed to emphasize reporting intent to export. Exporters must submit notices no later than seven days after accepting a definite contractual obligation to export or equivalent intracompany agreement. In cases where actual export takes place less than seven days after the intent to export is formed, the notice must be submitted to EPA no later than the same day as export.

This change will allow more timely notice to the importing country. The requirement should not be burdensome to exporters since the notice can be prepared simultaneously with the Bureau of Census Shipper's Export Declaration Form which must be filed in connection with the shipment.

Quantities Exported

Another issue raised in the proposed rule was whether notices should include some estimate of the quantity of a chemical being exported. The proposed rule did not require reporting of quantity data. Therefore, no quantity data would be included in the notice to a foreign government. A foreign government commented that quantity data should be included in the notice. Apparently such information has been useful to them in reaching agreement with U.S. exporters concerning PCB-containing organic pigments.

This rule does not require such estimates of quantity. The language of section 12(b) does not appear to give EPA authority to require quantity information. In addition, under this rule, the foreign government will only receive notice of the first annual export of any given substance or mixture. The inclusion of quantity data for just the first shipment (from the U.S. only) would be of questionable value in their overall assessment of the substance or in making regulatory decisions concerning domestic manufacture and continued importation from other countries.

Export of Mixtures

An industry comment asks EPA to establish a minimum cutoff point for the percentage of a regulated substance in a mixture that would require notice to EPA. The suggestion is that if a mixture contains less than 1 percent of a regulated substance, the export of that mixture need not be reported.

Such a cutoff is not included in the rule. EPA does not believe that such an exemption would be wise given that some substances may retain their toxic or hazardous properties below a 1% level in a mixture. However, exporters need not test their export products for impurities in order to comply with these regulations. The requirement for notice covers only substances known to be in the exported material.

Exports for Uses Not Regulated

In the proposal, EPA took the position that the export notification requirement for a chemical is not contingent on whether the intended use of the chemical has been regulated. This final rule adopts the proposed approach. Notice must be given to EPA even though the chemical is being exported for a use, or in a manner, that is not regulated domestically under the relevant section 5, 6, or 7 action, rule, or order. An exporter of CFCs stated that if use of a chemical is allowed in domestic commerce, then, "industry should not be burdened with unreasonable reporting requirements for their exporting business." They cite as support the Trade Agreements Act of 1979 (Title IV, Standards Agreement of PL 96–39) which states that no Federal agency may engage in any standards-related activity that creates unnecessary obstacles to foreign commerce of the United States.

EPA does not agree that the reporting requirements of section 12(b) represent an obstacle to foreign commerce. Further, these regulations are not a standards-related activity. The reporting requirements themselves contain no restrictions on exports and do not prevent or delay the export process. Also, as discussed earlier, EPA does not believe that these regulations place an undue burden on exporters. This opinion was also shared by most of the other commenters.

As for the intended-use issue itself, the Agency is responsible for informing the importing country about actions taken or data gathered with respect to a regulated chemical. This notice will include information about any exempt uses of such substance or mixture within the U.S. However, it is up to the foreign government to determine what action, if any, it will take with respect to the substance or mixture, including exempted uses. Moreover, in many cases the exporter will not know the intended use of the substance or mixture. To require the exporter to make such a use determination would be unnecessarily burdensome, and in some cases, impossible.

Country to Which Exported

An exporter commented that when a chemical is shipped to a foreign distribution center, the exporter may have limited or no knowledge of the final destination of the substance. The exporter requested that EPA clarify whether the country of initial destination is considered to be the country "to which exported."

The Agency's primary concern is providing information to the government of the country in which the regulated substance will be used. However, the Agency realizes that there may be limits to an exporter's knowledge of the ultimate destination of the substance. EPA believes that the term "country to which exported" means the same as the Bureau of the Census definition of "country of destination" used for its export statistics requirements (U.S. Bureau of the Census, Schedule B, "Statistical Classification of Domestic and Foreign Commodities Exported from the United States"). The country of destination is defined as the country where the goods are to be consumed, further processed, or manufactured, as known to the shipper at the time of exportation. If the exporter does not know the country of ultimate destination, the shipment is credited to the last country to which the exporter knows that the merchandise will be shipped.

PCB Items

One company objected to including PCB-containing items in the rule. They feel it is inappropriate and goes beyond the statutory authority of section 12(b). Also, they believe it would be a redundant requirement since section 6 PCB regulations already ban manufacture and distribution in commerce, including exports of PCB items.

For the purposes of section 12(b), the Agency's authority applies to the chemical substance or mixture, and does not distinguish as to the form of the substance or mixture, e.g., whether it is in bulk form or contained in an article. Therefore, notice of export for "PCB Articles," except PCB equipment, as defined at 40 CFR 761.2(f), is required.

As a general policy, EPA will not require notice of export for articles unless the Agency specifically so requires in the context of individual section 5, 6, or 7 rulemakings or actions. Notice of export for "PCB Articles" was specifically required in section 6 PCB ban regulations and in the proposed section 12(b) rule.

The decision not to routinely require notice of exports for articles is based on the general difficulty in determining that a specific chemical substance or mixture is present in the article. In the future, if export notices are required for articles containing regulated substances, the section 12(b) regulations will be amended. Such an amendment will be made in the context of specific section 5, 6, or 7 rulemakings or actions. In such a context, the Agency will entertain public comments and be able to clarify which articles are of concern.

This comment also raises the issue of export notices about regulated substances or mixtures for which an export exemption has been granted. Under section 5 and 6 regulations, manufacture, processing, and distribution, including for export (as provided in section 12(a)(2) of TSCA) of a chemical may be prohibited unless a specific exemption has been granted. The PCB Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions regulations (40 CFR 761) contain such a provision. After May 1, 1980 no person may manufacture, process, or distribute PCBs, including for export, without a specific exemption from these regulations. If such an exemption is granted for PCBs (in articles or otherwise) or for substances under future section 5 or 6 actions, exporters must submit a section 12(b) notice for any such export. The language of § 707.60(b) (proposed § 707.1(b)) of this rule has been modified accordingly.

Chemicals Accompanying Equipment

Two exporters suggested that shipments of regulated chemicals that accompany articles or equipment in which they are intended to be used, or which are included in maintenance kits for such articles or equipment should be exempt from section 12(b) reporting. For example, shipments of electronic equipment service kits which contain cans of CFC aerosol cleaner, or separate containers of CFC refrigerant packed in shipments of air-conditioning equipment should not require export notices.

The Agency disagrees. Both examples involve shipments of regulated chemicals subject to section 12(b) requirements. Simply because a regulated chemical accompanies a shipment of articles or equipment does not alter the fact that the regulated chemical *per se* is being exported. Therefore, notice of export is required for such exports.

Citing Regulations

A company requested that EPA delete § 707.67 (proposed § 707.4(e)) in which an exporter must cite the EPA action that triggered their report on the substance.

The Agency does not believe that this section is an unnecessary or burdensome requirement. Exporters will already know which EPA regulation triggered an export notice. In addition, inclusion of this information will aid in the timely processsing of the notice, especially in such cases where a substance is a member of a regulated category, but is not specifically named in the rule.

Notices Prompted by Proposed Rules

One chemical company suggested that section 12(b) notices should not be submitted as a result of proposed rules. They want clarification of when, after a proposal, reports need to be submitted.

Section 12(b) clearly requires notice of export for chemicals *proposed* to be regulated under sections 5 and 6. Ideally, an export notice on a substance covered by a proposed or final rule would be submitted immediately. However, it is unrealistic to expect exporters to obtain copies of such a proposed rule, understand it, and comply with the section 12(b) requirements in such a timeframe. Therefore, notice of export will be required only for exports beginning thirty days following **Federal Register** publication of the proposal.

Company Reports

Another company wanted to know who specifically is responsible for reporting, i.e., each plant site, company subsidiary, or corporate headquarters. In their opinion, the decision should be left up to the company.

The Agency agrees and will accept notices from plant sites, subsidiaries, or corporate headquarters.

Form of Notice

A company stated that a requirement to file a separate notice for each chemical shipped to one location is overly burdensome.

With regard to the format of the notice, EPA has never stated that an individual notice would be required for each substance exported to the same country. Information on several substances going to several countries may be combined into one notice to EPA as long as the content of that notice meets all the requirements of §§ 707.65 and 707.67. Notice by letter will suffice. The Agency does not believe it is necessary to create a form for such notices.

Notice to the Foreign Government

A public interest group urged EPA to reduce the turnaround time for sending a notice to a foreign government from seven days to three days. This

commenter also wanted EPA to send notices directly to EPA's counterpart rather than the country's embassy in Washington.

EPA plans to achieve as short a notice turnaround time as possible, but believes that a three-day maximum is unworkable. However, § 707.70 (proposed § 707.5(a)) has been changed to reduce this time from seven to five working days. Foreign governments may designate any official or agency as their proper recipient of section 12(b) notices. Absent any special designation, EPA will continue to notify the appropriate embassy in Washington. EPA believes this provides ample opportunity for direct notification. In addition to direct notification, EPA will inform the Department of State. EPA will, of course, keep a current file of appropriate notice recipients.

Possible Prejudicial Notice

A company stated that EPA should be aware that the notice it sends to a foreign government could be misleading and cause undue alarm. The notice may, they assert, be inappropriate to the other government's assessment of the risk involved.

EPA's notice to foreign governments will be as objective as possible. The notice will summarize EPA's action or findings with respect to a substance or mixture. The foreign government's response to the notice or the applicability of this information to their own risk assessment process is something the Agency cannot foresee or control.

EPA Contact

An exporter suggested that § 707.70(b)(2) (proposed § 707.5(b)(2)) be clarified to indicate whether the individual to contact for further information is an EPA or foreign official.

The final language specifies that the person a foreign government can contact for further information will be an EPA official.

Confidentiality

No specific confidentiality provision was included in the proposal. A company and a trade association strongly urged EPA to include such a section in the final rule. They assert that an exporter should be allowed to claim notices confidential to protect trade secret information and the exporter's business and trade investments. They also stated that this information should not be put in a public file or released to the public in any manner. One company stated that information claimed confidential should be protected in the notice provided to the foreign government, such as by protecting a confidential chemical identity by substituting a generic class description.

A confidentiality section has been added to this rule. The new § 707.75 allows the exporter to assert a confidentiality claim for any information contained in the notice. It provides that the exporter must assert any claims of confidentiality at the time of submission by clearly marking those portions of the notice that are considered confidential. Any information claimed as confidential in the notice will be treated by EPA as confidential and will only be disclosed to the public through the procedures set forth in 40 CFR Part 2.

With respect to the notice to the foreign government, the rule provides that EPA will include the specific chemical name of the substance to be exported, as well as the other information set forth in § 707.70, in each notice notwithstanding any claims of confidentiality for the information. This may result in disclosure of some confidential information to a foreign government, i.e., that a particular chemical substance is being exported to that country. In recognition of this possibility, EPA will tell the foreign government that there is confidential information in the notice and request that they take appropriate measures to safeguard the information. In addition, even though confidential information may be disclosed to a foreign government as part of the notice set forth in § 707.70, the rule provides that EPA will treat any such information as confidential with respect to other persons in accordance with section 14 of TSCA and EPA's confidentiality regulations in 40 CFR Part 2. Further, EPA expects that in some cases foreign governments will ask EPA for additional information or data beyond that contained in the notice set forth in § 707.70. In responding to those requests for additional information or data, EPA will provide the information or data to the foreign governments only if that information can be disclosed under section 14 and 40 CFR Part 2.

This approach to the confidentiality of section 12(b) notices is based upon EPA's interpretation of TSCA. There is an apparent conflict on the face of the statute between section 12(b) and section 14(a). Section 14(a) could be read as prohibiting all disclosure beyond that set forth in section 14. However, this reading would contradict the mandate of section 12(b). Because the statute must be interpreted to give the fullest possible effect to both section 12(b) and section 14(a), EPA interprets section 12(b) to require notification of the foreign government even when information in the notice is confidential, but to prohibit disclosure to other persons of such confidential information.

Section 12(b) requires exporters of chemical substances for which submission of data is required under section 4 and 5(b) or which have been subjected to certain regulatory actions under section 5, 6 and 7 to notify EPA of the export of those substances. The sole purpose of this notice to EPA is to enable EPA to notify the government of the importing country that a chemical substance subject to those actions under TSCA is being exported to that country. In the case of substances subject to data submission requirements under sections 4 or 5(b), EPA is required to notify the foreign government of the availability of the data. In the case of substances regulated under sections 5, 6, or 7, EPA is required to notify the foreign government of the nature of the regulatory action. Upon receipt of the notice, the foreign government can consider its own actions.

There is no statutory purpose for EPA to receive notices under section 12(b) from exporters unless EPA can give notice to the importing governments. Therefore, in order to fulfill the purpose of section 12(b) it is necessary to give the foreign government notice even if the notice contains some confidential information. If this provision were interpreted otherwise, EPA would be unable to provide the foreign government with a notice that would have any meaning and that would carry out the purpose of section 12(b).

At the same time, to give full effect to the purpose of section 12(b), EPA does not have to disclose the information in an export notice to anyone other than the specific foreign government. The purpose of section 12(b) is served by disclosure to the foreign government. Disclosure to others would not further this purpose and would contradict the purpose of section 14(a) which is to limit unnecessary public disclosure of confidential information. Consequently, it is only necessary to interpret section 12(b) to require disclosure of confidential information to the foreign government, not to require further disclosure.

This interpretation of the requirements of section 12(b) is supported by a review of the legislative history of section 12(b). The provision that became section 12(b) appeared in both the House and Senate versions of TSCA. The language of each was virtually identical. Neither the House bill, nor the committee reports accompanying the House and Senate

bills, addressed the question of confidentiality. However, the language of the Senate bill (S. 3149) as reported March 16, 1976 is instructive as to how confidentiality would bear on the notice to the foreign government. Section 12(b) of the bill reads as follows:

(b) Notice—(1) If any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 or 5, such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of the availability of the data (subject to section 14) submitted to the Administrator under section 4 or 5 for such substance or mixture.

(2) If any person exports or intends to export to a foreign country a chemical substance or mixture for which a rule has been proposed or promulgated under section 5 or 6, or with respect to which an action is pending, or relief has been granted, under section 7, such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of such rule, action or relief.

Paragraph (b)(1) uses the phrase "(subject to section 14)" when referring to the availability to the foreign government of the data under section 4 or 5. This phrase is not used either in reference to the notice to the foreign government in paragraph (b)(1) or to the notice to the government in paragraph (b)(2). This indicates that the Senate intended the limits of section 14 to apply to the disclosure to the foreign government of data submitted under section 4 or 5 but not to the actual export notice to the foreign government under (b)(1) or (2).

The House bill does not contain any reference to section 14. However, in discussing the differences between the House and Senate bills, the Conference Committee stated:

Except for minor differences in language, the House amendment follows the Senate provision. [H.R. Conference Rep. No. 94–1679, 94th Cong., 2nd Sess. 88 (1976)].

The final language of section 12(b) also does not contain any reference to section 14. However, the Conference Report states:

The conference substitute follows the policy set forth in both the Senate and House provisions * * * to provide information to foreign governments regarding chemical substances and mixtures, so that such foreign governments can protect their own citizens. Supra at 88.

From this discussion it is clear that the Conference Committee did not view the absence of the reference "(subject to section 14)" in the House bill or in the final language of section 12(b) to be a substantive difference. Accordingly, it is reasonable to conclude that Congress intended the limitations of section 14 to apply to the availability of data to the foreign government, not to the notice EPA would give to the foreign government.

This conclusion is further supported by examining the intent of section 12(b) as discussed in the legislative history. As stated by the Conference Committee in the language referenced above, the clear intent of section 12(b) is to provide a foreign government with notice that a chemical substance which has been subjected to either testing requirements or regulation under certain provisions of TSCA is being exported to that country from the U.S. This notice is to enable the foreign government to protect its own citizens. If the notice were not sent because some of the information contained in the notice was claimed as confidential, the purpose of section 12(b) would not be served.

It is clear from the House and Senate committee reports that both houses intended that EPA send a notice to the foreign government for each chemical subject to section 12(b) which would be exported to that country. The House Committee on Interstate and Foreign Commerce stated:

The Administrator must furnish the government of the country of destination timely notice of the availability of data submitted under section 4 or 5 of the rule, action, or relief under section 5, 6, or 7. [H.R. Rep. No. 94–1341, 94th Cong., 2nd Sess. 49 (1976).]

A similar intent was expressed by the Senate Committee on Commerce:

The Administrator shall furnish the appropriate information pertaining to the application of this act to the government of the foreign country for which the export is intended. [S. Rep. No. 94–698, 94th Cong., 2nd Sess. 25 (1976)]

This language indicates that neither the House nor the Senate intended that the Administrator not give notice to the foreign government.

Section 14(a) of TSCA has the primary purpose of restricting public disclosure of trade secrets and other confidential commercial and financial information. EPA does not believe that disclosure to a foreign government of only the limited amount of specific information required by section 12(b) contradicts the intent of section 14(a). The minimal information in the notice, as set forth in § 707.70 of the regulation, contains only two potential commercial secrets—that a specific chemical substance is commercial and that it is being exported to a specific country.

This is information which many foreign governments can obtain under their own authority to control the entry of goods into their countries. The other information in the notice specifies that the substance in question has been subjected to a testing requirement and describes the availability of data or that the substance has been subjected to a specified regulatory action under TSCA.

EPA recognizes that the fact of export of a particular chemical substance to a particular country may in some cases be a commercial secret to the exporter. EPA believes that, while Congress intended that this basic information be provided to the government of the country of import, Congress did not intend that this information be disclosed to others. There is no indication in the legislative history that Congress intended to treat section 12(b) notices as available to the public. Rather the language of section 14 would control disclosure other than to the foreign government.

As to the disclosure of additional information to the foreign government, it is clear from the legislative history discussed above that Congress intended the availability to the foreign government of such information to be governed by section 14. The language of the Senate bill expresses this concept, and the Conference Committee makes clear that the final language is not a substantive change from the Senate bill. Accordingly, if the foreign government were to request further information concerning the specific export which triggered the section 12(b) notice, the government would receive only that information which can be disclosed under section 14. Similarly, the data submitted under section 4 or 5(b) of TSCA would only be available to the foreign government if it can be disclosed under section 14.

EPA expects that most of the section 12(b) submissions will not be confidential. A great deal of information about exports of chemical substances is already publicly available, for example, through statistics released by the Bureau of the Census. EPA also anticipates that exporters will not make overly broad claims of confidentiality. There are four key items of information that would be submitted to EPA: the name of the exporter, the name of the exported substance or mixture, the country of import, and the date of export. EPA believes that for most situations where some aspect of an export transaction is confidential, the confidentiality can be protected by claiming only a single item of information confidential, usually the exporter's name.

EPA has decided not to require substantiation of confidentiality claims at the time of submission. However,

exporters will be required to substantiate claims of confidentiality under the procedure of 40 CFR Part 2 if EPA receives requests for the information.

If, for example, a section 12(b) submission were requested under the Freedom of Information Act (FOIA), the exporter would be asked to substantiate the confidentiality claims. If the exporter were to claim more than a single item of information confidential, the exporter would have to substantiate how disclosure of a given item, such as chemical identity, would be harmful if another item, such as the exporter's identity were held confidential. Accordingly, EPA expects that, in most cases, claiming only a single item of information in the submission as confidential will adequately protect proprietary information.

Submitters should carefully consider the need for confidentiality claims. Accordingly, EPA advises that the following questions will be among those which submitters of section 12(b) notices will be required to answer in order to substantiate their claims:

1. Do you assert that disclosing the information you have claimed confidential would substantially harm your competitive position? If so, what are those harmful effects, and why should they be regarded as substantial? What is the causal relationship between disclosure and the harmful effect?

2. If you have previously exported this chemical in any form to the destination country, what precautions did you take to protect the information you now claim as confidential from disclosure?

3. To what extent has it been, or will it be, revealed to others that this chemical will be exported by you to the destination country? What precautions have you taken regarding undesired disclosure of the information you have claimed confidential?

4. Has EPA, another Federal agency, or a Federal court made any determinations regarding the confidentiality of any item you have claimed confidential? If so, please attach copies.

5. How long should confidential treatment be given the information you have claimed confidential?

6. If you have claimed exporter identity plus any other item of information confidential, and EPA keeps exporter identity confidential, how would disclosing the other information you claimed confidential substantially harm your competitive position?

7. If you have claimed more than one item of information confidential, and EPA keeps one item confidential, how would disclosing the other information you claimed confidential substantially harm your competitive position?

Establishment of a Sunset Provision

EPA did not include a sunset provision in the proposal, but raised this issue for comment. Seven comments addressed the question. Industry comments favored a sunset provision that would phase out reporting on a regulated substance after three years, but no later than five years. However, one of these companies qualified its support for a sunset provision with a recognition of the problems and difficulties of imposing such a requirement in this case. They suggested as an alternative that EPA annually publish in the **Federal Register** a list of those substances for which section 12(b) reporting is no longer required. Others that commented opposed a sunset provision. They stated that such a requirement would deny foreign governments necessary information and would be contrary to Congressional intent.

As stated in the proposal, EPA is not required to include a sunset provision in these regulations because export reporting is mandated by statutory language. EPA has decided that, at present, it will not institute a sunset provision. However, as the Agency gains more experience with administering these regulations, it may be appropriate to amend them to discontinue requiring notices on certain substances. As pointed out in the proposal, it is possible that after a period of time the foreign government would gain no further benefit from such notices if no new information is included.

Other Comments

(1) One company was concerned that sections 5(a) and (b) of TSCA might be read together to trigger export notice requirements on all *new substances subject to premanufacture notification under section 5(a).*

This is not a correct interpretation. Export notice would be required for a new chemical substance only if it is (1) subject to a section 4 test rule; (2) included on the section 5(b)(4) list; (3) subject to an order issued under section 5(e) or (f); or (4) is subject to a proposed or final significant new use rule.

(2) Another company pointed out that notices of export for individual chemicals within a category of chemicals subject to a section 4 rule would also increase the reporting burden. They suggest that the exporter only be required to say that they are exporting a member of the regulated category.

EPA will continue to require reporting of the specific substance name as well as the substance category. The Agency believes this information will be valuable to the foreign government, especially with regard to specific test results on that substance. The Agency understands the industry's concern about the number of reports that may be involved. However, such a policy could potentially work to the exporter's advantage. For example, it is possible that while the category of substances may be of concern, some specific member of a category could prove to have low or no toxic effects as a result of testing—information which could therefore help the exporter.

(3) One exporter proposed that, in lieu of section 12(b) requirements, foreign governments could be notified under existing Trade Agreements Act of 1979 provisions (Standards Agreement).

The Agency disagrees. First, section 12(b) requires that EPA notify *any* country importing the TSCA regulated substance. However, under the Standards Agreement, notices would only be sent to those countries that signed the standard Code portion of the General Agreement on Tariffs and Trade (GATT). Not all countries that import chemical substances and mixtures from the U.S. signed this agreement. Secondly, the Standards Agreement requires notice to participating countries of *all* standards-related activities, regardless of whether they pertain to exports of chemicals. Such GATT notices would not specify that a regulated substance was actually being exported from the U.S. to that country. On the other hand, section 12(b) notices are export *and* chemical specific. Therefore, GATT notices would not fulfill the intent of section 12(b). Finally, the procedure for notifying foreign governments would be much less direct under the Standards Agreement than under section 12(b). EPA would have to notify the U.S. Trade Representative and the Technical Office (Department of Commerce), which in turn would notify GATT headquarters in Geneva, Switzerland, which would then notify the foreign governments. Such a procedure would delay section 12(b) notification to the foreign government.

(4) One company asked whether notice was required for exports or regulated substances from Alaska to a U.S. mainland destination.

Shipments between points within the customs territory of the U.S. are not considered exports even though they may pass through a foreign country. Therefore, such shipments are not subject to section 12(b) reporting. This comment did, however, prompt a

clarifying change in the definition of exporter. This definition under § 707.63(b) now includes the phrase "to a destination outside of the customs territory of the United States."

Official Rulemaking Record

EPA established the official record for this rule (docket number OTS–120001) which is available for public inspection in the Office of Toxic Substances, Rm. E–447 from 8 a.m. to 4 p.m. Monday through Friday except legal holidays. This record includes (1) the rule, (2) written comments, and (3) other information identified by the Administrator as pertinent to promulgation of the rule.

The record inlcudes the following categories of information:

1. The proposed rule and comments received.
2. A draft of the proposed rule sent to the Manufacturing chemists Association (now Chemical Manufactures Association).
3. Letters of transmittal sent with that draft (item 2), and written comments received on it.
4. Minutes of informal meetings held on September 13, 14, and 19, 1978, and October 27, 1978, with industry and foreign government representatives.
5. A letter from the Natural Resources Defense Council, dated May 8, 1978, concerning interim procedures under section 12(b).
6. Correspondence with the Bureau of the Census, dated April 18, April 30, June 14, and June 26, 1979, concerning possible use of Federal Trade Statistics Act data.
7. May 15, 1980 report by the House Committee on Interstate and Foreign Commerce on the Toxic Substances Control Act amendment of 1980.
8. A letter to Congressman Scheuer, Chairman of the House Consumer Protection and Finance Subcommittee dated October 17, 1980.

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 "specialize." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: December 8, 1980.

Douglas M. Costle,

Administrator.

Therefore, Title 40 of the Code of Federal Regulations is amended by adding a new Part 707 as set forth below:

PART 707—CHEMICAL IMPORTS AND EXPORTS

Subparts A–C—[Reserved]

Subpart D—Notices of Export Under Section 12(b)

Sec.

707.60 Applicability and compliance.
707.63 Definitions.
707.65 Submission to agency.
707.67 Contents of notice.
707.70 EPA notice to foreign governments.
707.75 Confidentiality.

Authority: Sec. 12(b), Pub. L. 94–469, 90 Stat. 2033 (15 U.S.C. 2611(b)).

§ 707.60 Applicability and compliance.

(a) Section 12(b) of the Toxic Substances Control Act requires any person who exports or intends to export a chemical substance or mixture to notify the Environmental Protection Agency of such exportation to a particular country if any of the following actions have been taken under the Act with respect to that chemical substance or mixture:

(1) Data are required under section 4 or 5(b),

(2) An order has been issued under section 5,

(3) A rule has been proposed or promulgated under section 5 or 6, or

(4) An action is pending, or relief has been granted under section 5 or 7.

(b) No notice of export will be required for articles, except PCB articles, unless the Agency so requires in the context of individual section 5, 6, or 7 actions.

(c) Any person who exports or intends to export polychlorinated biphenyls (PCBs) or PCB articles, for any purpose other than disposal, shall notify EPA of such intent or exportation under section 12(b). PCBs and PCB articles have the definitions published in §§ 761.2(s) and 761.2(f) of this title respectively.

(d) Any person who would be prohibited by a section 5 or 6 regulation from exporting a chemical substance or mixture, but who is granted an exemption by EPA to export that chemical substance or mixture, shall notify EPA under section 12(b) of such intent to export or exportation.

(e) Failure to comply with section 12(b) as set forth in these rules will be considered a violation of section 15(3) of the Toxic Substances Control Act, and will subject the exporter to the penalty, enforcement, and seizure provisions of sections 16 and 17 of the Toxic Substances Control Act.

§ 707.63 Definitions.

The definitions set forth in the Toxic Substances Control Act, section 3, apply for this Part. In addition, the following abbreviations and definitions are provided for purposes of this rule:

(a) "EPA" means the Environmental Protection Agency.

(b) "Exporter" means the person who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the chemical substance or mixture to a destination out of the customs territory of the United States.

(c) "Regulated chemical" means any chemical substance or mixture for which export notice is required under § 707.60.

(d) "TSCA" means the Toxic Substances Control Act.

§ 707.65 Submission to agency.

(a) Exporters must notify EPA of their export or intended export of each regulated chemical in accordance with the following:

(1) The notice must be in writing;

(2) The notice must be for the first export or intended export to a particular country in a calendar year;

(3) The notice must be postmarked within seven days of forming the intent to export or on the date of export, whichever is earlier. A notice of intent to export must be based on a definite contractual obligation, or an equivalent intra-company agreement, to export the regulated chemical.

(b) If the EPA action that prompts the notice is a proposed rule, the requirement to submit export notices to EPA shall begin thirty days after publication of the action in the **Federal Register.**

(c) Notices shall be marked "Section 12(b) Notice" and sent to the Document Control Officer, Office of Pesticides and Toxic Substances (TS–793), Environmental Protection Agency, Rm. E–447, 401 M Street, SW, Washington, DC 20460.

§ 707.67 Contents of notice.

The notice to EPA shall include:

(a) The name of the regulated chemical as it appears in the section 4, 5, 6, or 7 action. If a category is regulated, the name of the individual regulated chemical within that category, as well as the category, must be given. The name shall be that which appears in Volume I of the EPA Chemical Substance Inventory, or its supplements, if the chemical appears there.

(b) The name and address of the exporter.

(c) The country (countries) of import.

(d) The date(s) of export or intended export.

(e) The section (4, 5, 6, or 7) of TSCA under which EPA has taken action.

§ 707.70 EPA notice to foreign governments.

(a) Notice by EPA to the importing country shall be sent no later than five working days after receipt by the Document Control Officer of the first annual notification for each regulated chemical.

(b) Notices shall:

(1) Identify the regulated chemical.

(2) Summarize the regulatory action taken, or indicate the availability of data under section 4 or 5(b) of TSCA.

(3) Identify an EPA official to contact for further information.

(4) Include a copy of the pertinent **Federal Register** notice.

(c) Notices shall be sent to the country's ambassador in Washington, DC, or other official designated by the foreign government, and to the United States Department of State.

§ 707.75 Confidentiality.

(a) A person may assert a claim of confidentiality for any information which is submitted to EPA in a notice.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA. In the notice, the submitter must clearly identify the information that is claimed confidential by marking the specific information on each page with a label such as "confidential business information", "proprietary", or "trade secret".

(c) Notwithstanding any claim of confidentiality, information outlined in § 707.70 will be included in the EPA notice to the foreign government. With this exception, EPA will disclose information that is covered by a claim of confidentiality asserted in accordance with this section only to the extent permitted by, and in accordance with, the procedures set forth in TSCA and Part 2 of this chapter.

(d) If a person does not assert a claim of confidentiality for information at the time a notice is submitted to EPA, the Agency may make the information public, including placement in a public file, without further notice to the person.

[FR Doc. 80-38933 Filed 12-15-80; 8:45 am]

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federal register

Tuesday
December 16, 1980

Part V

Department of Housing and Urban Development

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

Manufactured Home Procedural and Enforcement Regulations; Formal Investigations and Adjudicative Hearings

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

24 CFR Part 3282

[Docket No. R-80-748]

Manufactured Home Procedural and Enforcement Regulations; Formal Investigations and Adjudicative Hearings

AGENCY: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the Manufactured Home Procedural and Enforcement Regulations in order to provide a more detailed set of regulations to govern investigations and adjudicative proceedings by the Office of Manufactured Housing Standards. The purpose is to provide for uniform and fair proceedings with sufficient detail so that the parties involved are adequately informed of the procedures to be followed. The hearing procedures will apply uniformly to all proceedings where a party is aggrieved by a preliminary determination (including an administrative determination on the propriety and amount of proposed civil penalties) issued by the Office of Manufactured Housing Standards pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 or its regulations.

EFFECTIVE DATE: March 2, 1981.

ADDRESS: Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Jeffrey Hammond, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-7055.

SUPPLEMENTARY INFORMATION: On December 21, 1979 the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection published in the **Federal Register**, Vol. 44, No. 247, p. 76176, a proposed revision of 24 CFR Part 3282 Subpart D. Subpart D governs formal investigations and adjudicative hearings under the National Manufactured Housing Construction and Safety Standards Act of 1974 (Act). Relatively few comments were received, but several of them were very useful in assisting the Department in evaluating the proposed rule. All comments were given careful consideration, and a number of suggestions were adopted in whole or in part as reflected in this publication. Generally, portions of the proposed rule which were not commented upon are not discussed.

Changes made in the proposed rule which are reflected in this final rule:

1. The entire rule has been renumbered in order to make particular provisions easier to find.

2. Most of the time periods and time limitations provided in the proposed rule have been lengthened and, in some cases, made more flexible.

3. The "Presentation of Views" procedure, which was eliminated in the proposed rule has been returned to the final rule as an informal procedure available prior to the service of an administrative complaint. Such procedure or an administrative action pursuant to these rules would meet the statutory requirement at 42 U.S.C. 5411(a) that the Secretary provide a person with an opportunity to "present his views".

4. The Appeals Officer who will review decisions of the administrative law judge is required by the final rule to be a lawyer. (§ 3282.152(c)).

5. The functions delegated directly to the Deputy Assistant Secretary for Regulatory Functions in the proposed rule are now left with the Secretary.

6. The protections relating to disclosure of information submitted by a party who claims that such information is a trade secret or is otherwise confidential or privileged have been expanded. A party may mark documents which it claims contain confidential or privileged information and when the Department is determining whether to release such information in response to a request or for some other reason, reasonable effort will generally be made to contact the submitting party to obtain comments. (§ 3282.154).

7. The return date of a subpoena was not explicitly stayed under the proposed rule while a petition or motion to quash or limit is pending. Under the final rule such a stay is explicitly provided. (§ 3282.157(d)(5)).

8. The proposed rule eliminated any right to discovery in an expedited proceeding. However, pursuant to the final rule discovery is generally permitted in expedited proceedings. (§ 3282.159).

9. The final rule provides an advance notification procedure which can be used to notify people that the Secretary is contemplating making a preliminary determination. (§ 3282.164(d)).

10. The proposed rule provided for dismissal by the Department without prejudice of any action at any time prior to the commencement of a hearing on the merits. This right to dismiss without prejudice has now been limited to one time per cause of action. A second dismissal of the same cause of action will generally be with prejudice. (§ 3282.181).

11. Some commenters said that it was unclear whether the portion of the rule dealing with civil penalties was intended to permit assessment for actions in addition to those prohibited by the Act. The final rule makes clear that the determination of the propriety of and amount of proposed civil penalties under this rule is limited to the circumstances enumerated in the Act. (§ 3282.184).

12. The proposed rule listed a number of factors to be considered by the Judge when determining the amount of a civil penalty including the size of the defendant's business. That factor has been expanded and now includes an evaluation of the defendant's ability to pay a civil penalty. (§ 3282.184(e)).

13. A provision has been added to the section dealing with civil penalties which requires payment of any civil penalty within 15 days after it becomes a claim by the United States. (§ 3282.185(b)).

14. A provision has been added to the final rule which requires that all final decisions be indexed and made available for public inspection. (§ 3282.193).

15. The proposed rule provided that a party who made a written motion would have no right to reply to the answer to the motion unless permitted by the Judge. The final rule permits such a reply. (§ 3282.166(b)(3)).

16. In cases where the decision of the Judge is appealed the proposed rule permitted only an appeal brief and an answer brief. The final rule permits a reply brief which must be limited to rebuttal of matters in the answering brief. (§ 3282.194).

17. Oral argument was not permitted on appeal under the proposed rule. However, it will be permitted pursuant to the final rule at the sole discretion of the Appeals Officer. (§ 3282.197).

18. Service of a motion for an expedited proceeding by telegraph was permitted under the terms of the proposed rule. However, it is not permitted under the terms of the final rule. (§ 3282.159).

19. A provision in the proposed rule which permitted the Secretary to assess civil penalties, and which was criticized by some commenters, has been eliminated. It has been replaced with a

provision which permits a manufacturer or dealer to request a hearing on the Secretary's initial determination as to the propriety and amount of a proposed civil penalty. The promulgation of this rule simply formalizes and sets forth the way in which the Secretary will exercise his or her enforcement discretion with respect to whether to proceed against a particular defendant for a civil penalty and what size penalty to seek. It gives a potential defendant the opportunity to present his case at the early stages of the Department's decision making process concerning whether to go forward with a proposed civil penalty. If the Secretary determines, through the use of this process, that a civil penalty in a certain amount is appropriate and if the defendant does not voluntarily pay such penalty the Secretary would then be in a position to take the steps necessary to cause suit to be filed in Federal court in order to obtain a judgment against the defendant for a civil penalty in the amount determined to be appropriate. (§ 3282.163(d)).

20. As a result of the general authority set forth at 42 U.S.C. 5413(c) and § 3282.163(f) of the rules a provision which explicitly permitted the determination of facts relating to the issuance of an injunction has been eliminated.

21. Other portions of Part 3282 have been changed, where necessary, in order to make them consistent with this rule. Generally, this has required deletion of requirements which are inconsistent with the amended Subpart D. These changes appear at the end of the amended Subpart D.

22. A few other generally, minor, or nonsubstantive changes, have been made in the proposed rule. In particular some relatively minor changes were made in the discovery provisions in order to make them consistant with the amendments to the Federal Rules of Civil Procedure which became effective on August 1, 1980.

Comments Which Were Rejected

1. *Comment:* That notice of each pending proceeding be published in the **Federal Register.**

Response: The Department believes that no significant benefits would be derived from such publication in view of the fact that the parties directly involved will have actual notice of the proceeding as a result of the service requirements of the rules. Other interested people can periodically obtain by telephone or FOIA request information relating to all pending proceedings. In addition, as previously mentioned, the Department has added a requirement that all final decisions be available for public inspection and that such decisions be indexed. (§ 3282.193).

2. *Comment:* That any party be permitted to opt out of a consolidated proceeding for any reason.

Response: The Department has decided to leave the question of whether to consolidate various administrative actions within the discretion of the Judge. If a party knows of reasons which make consolidation more or less desirable in a particular case then that party may bring those reasons to the attention of the Judge when the decision concerning consolidation is being made. A defendant can no longer require a separate hearing as a matter of right as he could under the previous rules.

3. *Comment:* That the rule unduly restricts the availability of discovery and that the use of all discovery techniques should be unrestricted unless limited by the Judge.

Response: Restrictions on discovery are unchanged from the proposed rule. The rule provides for certain discovery as a matter of right. All additional discovery is available only by agreement of the parties or by order of the Judge. The Department has decided not to remove the requirement that the Judge order discovery if the parties can not reach agreement because: (a) in most cases handled under this rule the underlying facts will be within the knowledge of the defendants or within the knowledge of third parties who are as accessable to the defendant as they are to the Department; and (b) abuse of discovery is a significant factor in increasing the delay in and expense of civil litigation. The Department believes that the limitations on discovery in these rules will eliminate abuse without limiting a party's right to obtain needed information.

4. *Comment:* That a defendant be able to move for a more definite statement before being required to answer the administrative complaint.

Response: The Department has decided not to permit a motion for a more definite statement under the final rule because it would cause unnecessary delay and because the objectives of the motion can be accomplished by other means. For example, if a defendant has concern about the substance of a compliant the defense of failure to state a claim upon which relief can be granted can be raised in the answer along with such other defenses as may be appropriate. In addition, a defendant will be able to take advantage of the discovery procedures available pursuant to §§ 3282.172 through 3282.175.

5. *Comment:* That § 3282.166(a) should not limit the pleadings which may be filed to the administrative complaint and an answer.

Response: The commenters were concerned that this section would prohibit the filing of motions and discovery papers without prior order of the Judge. Such a concern comes from a misunderstanding of the meaning of the word "pleading". Pleadings contain formal allegations of claims or defenses, and reading the pleadings in a case will disclose the real matter in dispute between the parties. Therefore, § 3282.166(a) prohibits the filing of counterclaims, third party claims, and other such claims and answers thereto, but the rule does not prohibit the filing of motions and discovery papers.

6. *Comment:* That large companies will suffer from discrimination if the size of a company is considered as one of the factors in determining the amount of a civil penalty. (§ 3282.184).

Response: This factor has been modified to include consideration of the defendant's ability to pay, but the factor has been retained. The purpose of assessing civil money penalties is to serve as a punishment and a deterrent. The size of a defendant's business and its ability to pay are relevant considerations in determining the amount of a penalty which is appropriate in a particular case.

7. *Comment:* That the prohibition against counterclaims contained in § 3282.169(b) be eliminated.

Response: A counterclaim against the Department would not be necessary in order to fully resolve issues raised by the Department in the administrative complaint. It would be extremely unusual for a defendant to have a claim against the Department arising our of the same transaction or occurrance. However, if a defendant were to have such a claim or any other claim against the Department the prohibition against counterclaims does not limit any party from fully pursuing its rights in an appropriate forum.

8. *Comment:* That a party should be entitled to an evidentiary hearing as a matter of right when a motion is based on facts not appearing in the record. (§ 3282.179(d))

Response: The present provision permits the Judge to hear a motion based on facts not in the record by affidavits presented by the respective parties unless otherwise ordered by the Judge. The Department believes that this provision is adequate to protect the rights of every party and to ensure that any party can place before the Judge all relevant facts. If a party believes that it needs to present testimony for some reason that party can bring that reason to the attention of the Judge who could

then permit the presentation of the testimony.

9. *Comment:* That the prohibition in § 3282.198(d) against the later raising of an issue which could have been raised but is not timely raised before the Judge or Appeals Officer be eliminated.

Response: The Department believes that this rule is appropriate in order to eliminate the time and expense required by further litigation, the need for which might well have been eliminated by the timely raising of issues.

10. *Comment:* That the prohibition in § 3282.198(d) against the later raising of issues in "further proceedings" be changed to prohibit the later raising of issues in "the same proceeding."

Response: The Department has retained the "further proceedings" language in order to be certain to prohibit such things as the raising of new issues before a District Court in a related (possibly enforcement) action filed by the Department or by a defendant. As a result each party will have an opportunity to litigate each issue one time but will not be able to relitigate issues. Such relitigation would make the process of resolving disputes more time consuming and more expensive without any corresponding benefit.

11. *Comment:* That the words "Judge's decision" in 3282.194 be expanded to permit interlocutory review of orders, etc.

Response: Interlocutory review would cause additional delay and expense without resulting in corresponding benefits. The Secretary does not intend to permit such interlocutory review and, as a result, the language in 3282.194 has not been changed and no other provision is made for such review. Of course, all aspects of a case may be reviewed at the time of review of the Judge's decision.

12. *Comment:* That the bases upon which a witness may refuse to answer a question or produce evidence in response to a subpoena be expanded.

Response: Section 3282.162(c) provides that a witness may refuse to answer a question or produce evidence only if such testimony or evidence is privileged. Some commenters want the Department explicitly prohibited from obtaining irrelevant evidence. However, the question is not whether the Department wants evidence which is irrelevant to an investigation authorized by the Act because the Department will not seek such evidence. The question is who decides the issue of relevance at the time of the subpoena return. As the rule is structured the representative of the Department decides what is relevant by deciding what questions to ask or what evidence to ask for. However, if the decision as to relevance is made in the first instance by the person providing the information (who will not be in a very good position to know what is and what is not relevant because of limited knowledge about the scope of the Department's investigation) then such person could cause extensive and unnecessary delay and expenditure of resources by the Department while the Department brings a subpoena enforcement action in order to obtain the information.

13. *Comment:* That the Secretary does not have the authority to determine facts concerning those circumstances which could give rise to injunctive relief pursuant to the Act, and that the Secretary does not have the authority to issue injunctions.

Response: The Department agrees that the Secretary does not have authority to restrain violations of the Act and neither the proposed rule nor the final rule purported to grant the Secretary such authority. However, the Secretary does have authority to determine facts which might support the issuance of an injunction. There are several references to such authority in the Act. For example see 42 U.S.C. 5411(a) and 5412(a).

14. *Comment:* That a party should be given the right to contest a final determination of the Department which is obtained by default.

Response: In an adjudicative action against a particular party no determination by the Department as part of that action will become final by reason of default unless such party: (1) has been given notice pursuant to one of the provisions of the rule; (2) has been offered an opportunity for a hearing under the rule; and (3) has failed to take advantage of the opportunity for a hearing. Under such circumstances the Department believes that such party should be prevented from later contesting the determination. A right to later contest a default determination would serve to delay the adjudicative process without corresponding benefit.

15. *Comment:* That the Secretary adopt a procedure under which a party could obtain a determination at the time material is submitted to the Secretary concerning the confidentiality of the material and whether the Secretary intends to release such information.

Response: The Secretary does not want to have to expend the resources necessary to make determinations at the time documents are submitted when such determination will never have to be made in the vast majority of cases because requests for release of documents will probably not be received in most cases. In addition, it would be difficult for the Secretary to make an advance determination without knowledge of the circumstances under which release is requested.

A Finding of No Significant Impact under the National Environmental Policy Act of 1969 has been made in accordance with the Procedures for Protection and Enhancement of Environmental Quality. A copy of the Finding is available for inspection and copying according to Department rules and regulations during business hours at the Office of the Rules Docket Clerk whose address is stated above.

The Secretary deems the issuance of this rule necessary in order to carry out the National Manufactured Housing Construction and Safety Standards Act of 1974.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044 as extended by 12221.

Accordingly the part heading of 24 CFR Part 3282 and Subpart D are revised to read as follows:

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

* * * * *

Subpart D—Formal Investigations and Adjudicative Hearings

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Subpart D—Formal Investigations and Adjudicative Hearings

§ 3282.151 Applicability and scope.

This subpart sets forth general rules applicable to the conduct of formal investigations and administrative actions held pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 *et seq.* These rules shall be construed to secure the just, speedy and inexpensive determination of all proceedings governed by these rules.

General Provisions

§ 3282.152 Definitions.

As used in these rules:

(a) "Administrative action" is the only form of adjudicatory proceeding available under these regulations and it is commenced by the issuance and service of an "administrative complaint" by the U.S. Department of Housing and Urban Development, Office of Manufactured Housing Standards. An administrative action may result in a formal hearing or a less formal Presentation of Views.

(b) "Administrative hearing" means a hearing held as part of an administrative action and pursuant to 5 U.S.C. § 554.

(c) "Appeals Officer" means the Secretary or the Secretary's designee who shall hear, consider and determine fully and finally all appeals from decisions made as part of administrative actions. The Appeals Officer, if other than the Secretary, shall be a member of the bar of a Federal Court or of the highest court of any State.

(d) "Formal investigation" means any investigation conducted by the Office of Manufactured Housing Standards.

(e) "Investigative hearing" means a hearing which is non-Adjudicatory in nature and which is held in conjunction with a formal investigation.

(f) "Judge" means an administrative law judge qualified pursuant to 5 U.S.C. § 3105.

(g) "Presentation of Views" is an informal hearing available prior to the initiation of an administrative action.

(h) "Presiding Officer" means an individual, who is not a Judge, and who is authorized by the Secretary or his designee to preside over the course of investigative hearings.

§ 3282.153 Hearing sites.

All administrative actions will be assigned a hearing site or sites by an order of the Judge, who shall give due regard to the convenience and necessity of the parties or their representatives and witnesses, the availability of suitable hearing facilities, and other relevant factors. Hearing sites in actions brought pursuant to 3282.163(d) shall be assigned in accordance with 42 U.S.C. 5411(c). Hearing sites for investigative hearings will be designated in the subpoena.

§ 3282.154 Protection of trade secrets and other confidential information.

(a) In the course of an administrative hearing or a formal investigation a party may want to or may be required to submit material which that party believes contains a trade secret or other confidential or privileged information. When submitting such information, the party shall mark each page of each document deemed to contain confidential or privileged information with the following statement:

"[name and address of person submitting material] claims that this document contains confidential or privileged information."

Any document and any page of any document which does not contain this statement will be presumed to contain no confidential or privileged information and will be released at the Secretary's sole discretion.

(b) If material marked as indicated in (a) above is introduced into evidence in an administrative hearing, the Judge or presiding officer shall place that material under seal.

(c) Upon receipt of a request for release of any information marked confidential or privileged as prescribed in § 3282.154(a), above the procedures set forth in 24 CFR Part 15 shall be followed. However, prior to releasing information, reasonable effort shall be made to contact the party who submitted the information sought to be released so that oral or written comments supporting such party's claim of confidentiality or privilege may be made.

(d) Nothing in these regulations applies to the release of information to Congress. However, the Secretary shall make reasonable efforts to notify the submitting party in advance of releasing to Congress any information marked confidential as prescribed in § 3282.154(a) above.

(e) Nothing in these regulations applies to the release of information in response to an order of a Federal Court. However, where possible and when not in violation of the Court order or other directive, the Secretary will make reasonable efforts to notify the party submitting the information marked pursuant to § 3282.154(a) of the contents of the court order and of the Secretary's response to the order.

(f) When the Secretary is sued for release of information marked confidential as prescribed in § 3282.154(a), the Secretary will make reasonable efforts to notify the submitting party that the suit has been brought and of the nature of the suit.

(g) Nothing in these regulations will prevent the Secretary at any time from making available to the public the information described in § 3282.154(a). However, prior to releasing such information, reasonable efforts shall be made to contact the party who submitted such information so that oral or written comments supporting such party's claim of confidentiality or privilege may be made.

(h) After the conclusion of an investigation or hearing, the Secretary may return any documents received during the course of the proceeding. However, no documents which are part of the record of an administrative action will be returned.

(i) The Secretary may disclose any information after deleting portions which are confidential or privileged or in such combined or summary form as does not disclose the portions which are confidential or privileged.

(j) When submitting information to a primary inspection agency (PIA) or state administrative agency (SAA), the submitting party will mark all documents deemed to be confidential or privileged as indicated in § 3282.154(a),

above. Within 5 days of receiving a request for the release or information so marked, a PIA or SAA will refer the matter to the Secretary.

§ 3282.155 Retention of documents.

All documents, pleadings, books, records, papers, and other things filed with the Judge as part of an administrative action will be retained as part of the official record of the proceeding. However, the withdrawal of original documents may be permitted by the Judge.

§ 3282.156 Service of process.

(a) Services of process shall be by registered, certified or express mail, return receipt requested; by telegram; or by any person of suitable age and discretion.

(b) *Proof of Service.* (1) Proof of service is not required in a formal investigation.

(2) In an administrative action proof of service shall be by verification of the person making service or by affidavit containing the original return receipt or by receipt as appropriate. Failure to make proof of service does not affect the validity of service. At any time in his or her discretion and upon such terms as he deems just, the Judge may allow any subpoena or proof of service to be amended, unless it clearly appears that the substantial rights of the party on whom service was made would be materially prejudiced.

(c) Service of process may be made anywhere within the United States.

§ 3282.157 Subpoenas in administration actions and formal investigations.

(a) *For Attendance of Witnesses.* (1) Subpoenas for the attendance of witnesses in administrative actions shall be issued by the Judge, shall be captioned as required by § 3282.168(a), and shall command each person to whom it is directed to attend and give testimony at a time and place specified therein. The Judge may provide blank subpoenas to the parties who shall complete them before service. The Judge may cause the subpoena to be served or the Judge may deliver it to the party requesting it for service.

(2) Subpoenas for the attendance of witnesses in formal investigations shall be issued by the Secretary or the Secretary's designee and shall contain a caption which states: (i) "United States of America before the Department of Housing and Urban Development, (Office of Neighborhoods, Voluntary Associations and Consumer Protection—Office of Manufactured Housing Standards)"; (ii) the name of the party or parties being investigated; (iii) the file number; and (iv) a designation as appropriate, such as: "Subpoena Duces Tecum Et Subpoena Ad Testificandum." Such subpoenas shall commend each person to whom it is directed to attend and give testimony at a time and place specified therein and the Office of Manufactured Housing Standards shall cause such subpoenas to be served.

(b) *For Production of Documentary Evidence.* A subpoena may also command the person to whom it is directed to: (1) produce or permit access to the books, papers, documents, or tangible things designated therein; and/or (2) answer interrogatories.

(c) Any witness subpoenaed under § 3282.157(a) or (b) shall be paid by the party requesting the subpoena the same fees and mileage that are paid witnesses in the courts of the United States. When a subpoena for a witness or for production of documents is issued on behalf of any party other than the Department such person must tender with his request for a subpoena the total estimated costs for the witness's attendance including travel. Such tender shall be made to the Judge who shall hold such fee and deliver it to the witness after appearance.

(d) *Petition or Motion to Quash or Limit.* (1) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance but in no event more than 10 days after the date of service of such subpoena, apply to the Judge, in the case of an administrative action, to quash or limit such subpoena, accompanying such application with a brief statement of the reasons therefor. The Judge shall have the discretion of granting or denying said motion.

(2) No motion to quash or limit is available in a formal investigation. However, a subpoenaed party may petition the Secretary to modify or withdraw a subpoena by filing a petition within 10 days after service of the subpoena. The petition may be in letter form but must set forth the facts and the law upon which the petition is based.

(3) The Department (or other person who requested the issuance of a subpoena) and the person subpoenaed may enlarge the time for filing a petition or motion to quash or limit by agreement, however, such agreement shall have no effect unless it is evidenced by a writing, and, in the case of an administrative action, filed with the Judge.

(4) Any person who does not apply to the Judge within the time specified in paragraph (d) (1) of this section or who does not petition the Secretary within the time specified in paragraph (d)(2) of this section may not later raise before the Judge or Secretary or in any further proceedings any issue which could have been so raised.

(5) While a petition or motion to quash or limit filed in accordance with paragraph (d)(1) or (2) of this section is pending before the Judge or Secretary the return date of the subpoena shall be stayed. A new return date shall be set by the Judge or Secretary, if appropriate, when a decision is made on the petition or motion.

§ 3282.158 Settlement.

Anyone may propose, at any time, either orally or in writing, an offer of settlement which shall be considered by the Secretary. If any offer of settlement is rejected, the party making the offer shall be so notified and the offer shall be deemed withdrawn and shall not constitute a part of the record in such proceeding. If an offer of settlement is made and accepted and an administrative action is or has been commenced the parties may agree upon a document to be entered by the Judge as a consent decision.

§ 3282.159 Expedited proceedings.

At any time upon or after the commencement of an administrative action the Judge may order an expedited proceeding upon the motion of a party and for good cause shown. Such motion shall be in writing and accompanied by supporting documents, if any, that establish the party's claim of exigent circumstances warranting expedition. Service of such motions shall be by personal delivery to all parties or by registered or certified mail. All parties opposing the motion shall file a response on the date the answer is due or within 10 days from the date of receipt of the motion, whichever is later. If the motion is granted, time requirements provided elsewhere in these rules may be modified by the Judge to the extent required to fulfill the overall objectives of the Act and the ends of Justice: *Provided,* a hearing on the merits of the case shall not be scheduled on less than 10 days notice to the parties unless all parties to the case consent to an earlier hearing. Discovery in expedited proceedings shall be permitted as provided by these regulations unless limited by the Judge.

§ 3282.160 Qualification for appearance.

(a) Members of the bar of a Federal Court or of the highest court of any state are eligible to practice before the Secretary. No register of attorneys will be maintained.

(b) Any individual may appear on his or her own behalf. Any member of a

partnership involved in any administrative action or formal investigation may appear on his own behalf or on behalf of the partnership upon adequate identification. A corporation or association may be represented by a bona fide officer thereof upon a showing of adequate authorization.

(c) An individual or entity shall not appear except as provided in paragraphs (a) and (b) of this section.

Formal Investigations

§ 3282.161 Generally.

(a) The Secretary is authorized by 42 U.S.C. 5413 to conduct such investigations as may be necessary to promulgate or enforce Federal mobile home construction and safety standards established under the Act or otherwise to carry out the Secretary's duties under the Act.

(b) Hearings may be conducted by the Secretary in the course of any investigation for the purpose of taking the testimony of witnesses and receiving documents and other data relating to any subject under investigation. These hearings are non-adversary in nature and will not result in a formal adjudication by the Department. The purpose of an investigative hearing is to establish the facts surrounding actual, suspected or potential violations of the Act. These hearings shall be stenographically or electronically recorded and testimony of witnesses shall be under oath or affimation. Unless the Secretary determines otherwise for good cause, these hearings shall be public.

§ 3282.162 Rights of witnesses in investigative hearings.

(a) Any person subpoeaned in connection with any formal investigation shall be entitled, upon payment of costs, to purchase a copy of the transcript of his or her testimony as reported, except that in a nonpublic proceeding the witness may be limited to inspection of the official transcript of the testimony if the Secretary determines that good cause exists for such limitation.

(b) Any witness compelled to appear in person in an investigative hearing may be accompanied and represented, by counsel. The witness may be advised by counsel, in confidence, and upon initiative of either counsel or the witness, with respect to any question asked.

(c) *Objections.* (1) A witness may not refuse to answer a question or produce evidence except as permitted by § 3282.162(c)(2), otherwise testimony and other evidence will be taken subject to any objection which is made. Objections interposed will be continuing objections throughout the course of the proceedings, and repetitious or cumulative statement of an objection or of the ground therefor, in such cases, is unnecessary.

(2) Where the testimony or other evidence sought is privileged the witness may refuse to respond. If the witness refuses to respond the witness or his or her counsel shall state briefly and precisely on the record the grounds therefor.

(d) Upon completion of the examination of a witness, the witness may clarify any answers on the record in order that specified points of ambiguity, equivocation, or incompleteness may be corrected.

(e) The presiding official shall take all necessary action to regulate the course of the proceeding to avoid delay and to maintain order.

(f) In the case of contumacy of the witness or the witness's refusal to obey a subpoena or order of the Secretary, the United States District Court for the jurisdiction in which the inquiry is carried on may issue an order requiring compliance therewith; and any failure to obey the court may be punished by such court as a contempt thereof.

Administrative Actions

§ 3282.163 Applicability and scope.

Sections 3282.163 through 3282.197 set out procedures applicable to adjudicative actions dealing with the following situations:

(a) The existence of a defect, nonconformance or imminent safety hazard under the Act;

(b) The rejection of a State plan for full approval as an SAA under 42 U.S.C. 5422 and Subpart G;

(c) The withdrawal of full approval of a State plan under 42 U.S.C. 5422(f) and Subpart G;

(d) The determination of the propriety of and amount of a proposed civil penalty under 42 U.S.C. 5410(a);

(e) The disqualification of a primary inspection agency under Subpart H;

(f) The determination of any fact relating to the applicability or non-applicability of the Act or any regulation promulgated pursuant thereto.

To the extent that these regulations provide for hearings for parties which would otherwise qualify for hearings under 24 CFR Part 24, the procedures of 24 CFR Part 24 shall not be available and shall not apply.

§ 3282.164 Commencement of action and presentation of views.

(a) An administrative action is commenced by the issuance of an administrative complaint by the United States Department of Housing and Urban Development, Office of Manufactured Housing Standards.

(b) Such administrative complaint shall be subtitled "Notice of Preliminary Determination" and the Department shall be named as plaintiff and all other parties shall be named as defendants.

(c) The Office of Manufactured Housing Standards shall issue the administrative complaint and cause it to be served pursuant to § 3282.156.

(d) Prior to the filing of an administrative complaint the Office of Mobile Home Standards may send, by certified or registered mail, to any person or entity, a letter which notifies that person or entity that the Secretary is contemplating making a preliminary determination. Such letter may set forth the determination(s) and action which are contemplated by the Secretary and state that the Department may be willing to negotiate a settlement agreement. Such letter may also state that the person or entity to whom it is addressed may request a Presentation of Views pursuant to § 3282.164(e).

(e)(1) A Presentation of Views is a less formal method of dispute resolution which may be available upon request at any time by any person or entity prior to the issuance of an administrative complaint. A Presentation of Views is not available after service of an administrative complaint. A person or entity must write to the Director of the Office of Manufactured Housing Standards requesting a Presentation of Views. Such letter must state in detail the basis upon which a Presentation of Views is requested and must identify, by name, address and telephone number, all individuals and entities directly interested in the resolution of the issue. The Secretary will then notify the person or entity who requested the Presentation of Views, as well as such others as the Secretary deems appropriate, whether the Presentation of Views has been granted, and if appropriate, the date, time and place of the Presentation of Views.

(2) A Presentation of Views will be presided over by such person as is designated by the Secretary. A Presentation of Views may be written and/or oral, and may include an opportunity for an oral presentation, whether or not requested. The purpose of an oral presentation is to gather information to allow fully informed decision making. A Presentation of Views shall be conducted in a non-adversary and informal manner. The presiding officer shall have the duty and authority to conduct a fair proceeding, to take all necessary action to avoid

delay, and to maintain order. The presiding officer may require that testimony be given under oath or affirmation, and may permit cross-examination of witnesses by other witnesses or their representatives, and may permit the presentation of rebuttal testimony by persons who have already testified. The rules of evidence prevailing in courts of law or equity shall not control the conduct of an oral Presentation of Views.

(3) The Secretary will not issue a final order as a result of a Presentation of Views. However, the Department may issue an administrative complaint following a Presentation of Views.

§ 3282.165 Service and filing of pleadings and other papers.

(a) Except as otherwise provided in these regulations, every order required by its terms to be served, every pleading subsequent to the original administrative complaint, every paper relating to discovery required to be served upon a party, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of settlement, proposed order, proposed findings of fact or conclusion of law, brief, and similar paper shall be served upon each of the parties unless otherwise ordered by the Judge. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims or requesting new or additional relief against them shall be served upon then in the manner provided for service of subpoenas in § 3282.156. In the case of papers required to be served upon the Department two copies thereof shall be served.

(b) Whenever under these regulations service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the actual party is ordered by the Judge. Service upon the attorney or upon a party shall be made by delivering a copy to the attorney or party or by mailing it to the attorney or party at his or her last known address or, if no address is known, by leaving it with the Judge. Delivery of a copy means: handing it to the attorney or to the party; or leaving it at his or her office with his or her clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his or her dwelling house or usual place of abode with some person of suitable age and discretion residing therein. If service is made by mail the time of mailing is the time of service.

(c) Two copies of all papers required to be served upon a party shall be filed with the Docket Clerk for Administrative Proceedings either before service or within a reasonable time thereafter.

(d) Every paper required to be served upon a party shall be accompanied by a signed certificate of service which shall state the person who was served, the address, the manner, and the date of service.

§ 3282.166 Pleadings and motions.

(a) *Pleadings.* There shall be an administrative complaint and an answer. No other pleading shall be allowed except as permitted by order of the Judge.

(b) *Motions and Other Papers.* (1) An application to the Judge for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(2) The regulations applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these regulations.

(3) Within 15 days after service of a written motion, an opposing party may answer in writing. Within 7 days after service of an answer to a motion the moving party may reply in writing. Oral argument on motions may be required by the Judge on his own motion or it may be permitted by the Judge upon request by either party.

(4) The Judge may, in his discretion, rule upon motions for extension of time ex parte. Extensions of time or continuances in any administrative action may be offered for sufficient cause in the discretion of the Judge on his own motion, or on the motion of either party.

(5)(i) When a motion is granted with the result that the proceeding before the Judge is terminated, the Judge shall file a decision in accordance with these regulations. If such a motion is not granted as to all allegations and as to all parties, the Judge shall file an order with respect to that part of the motion which is granted.

(ii) A motion to dismiss may be made by any party at any time.

§ 3282.167 Rules of pleading.

(a) The administrative complaint shall contain: (1) a short and plain statement of the claim showing that the Department is entitled to relief; (2) a demand for decision for the relief to which the Department deems itself entitled; and (3) a statement of the facts to be determined if any. Relief in the alternative or of several different types may be demanded.

(b) *Particular requirements for administrative complaint.* Following the portions of the administrative complaint which are otherwise required by these regulations there shall be a "Notice to Defendant," titled as such and which shall state:

> The procedural regulations governing this action are located at 24 CFR § 3282.151 *et seq.* If you wish to contest this action you must appear and defend by filing an answer with [here state the name and address of the Docket Clerk for Administrative Proceedings] and by serving two copies on the Department's attorney whose name and address appear above. The answer must conform to the procedural regulations and it must be served within 20 days following service of the administrative complaint. If you do not appear and defend within the time provided, decision by default will be rendered against you for the relief demanded in this administrative complaint and the facts requested herein to be determined shall be determined as true.

(c) *Defenses; Form of Denials.* A party shall state in short and plain terms his or her defenses to each claim asserted and shall admit or deny the allegations upon which the Department relies, and a party shall admit or deny the truth of each fact stated by another party as one to be determined. If he is without knowledge or information sufficient to form a belief as to the truth of an allegation, he shall so state and this has the effect of a denial. Denials shall meet the substance of the allegation denied. When a party intends in good faith to deny only a part or a qualification of an allegation, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the party intends in good faith to controvert all the allegations of the administrative complaint, he may make his denials as specific denials of designated allegations or paragraphs, or he may generally deny all the allegations except such designated allegations or paragraphs as he expressly admits; but, when he intends to controvert all allegations and facts he may do so by general denial subject to the obligations set forth in § 3282.167(h).

(d) *Affirmative Defenses.* The answer shall set forth affirmatively accord and satisfaction, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, license, payment, release, res judicata, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense.

(e) *Effect of Failure to Deny.* Allegations in the administrative

complaint, other than those as to the amount of damage, are admitted when not denied in the answer. Allegations in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(f) *Pleading to be Concise and Direct; Consistency.* (1) Each allegation in a pleading shall be simple, concise, and direct. No technical forms of pleadings or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency. All statements shall be made subject to the requirements and obligations set forth in § 3282.167(h).

(g) *Construction of Pleadings.* All pleadings shall be so construed as to do substantial justice.

(h) *Signing of Pleadings.* Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address and telephone number shall be stated. A party who is not represented by an attorney shall sign his pleading and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

§ 3282.168 Form of pleadings.

(a) Every pleading shall contain a caption containing: (1) "United States of America before the Department of Housing and Urban Development"; (2) the title of the action; (3) the file number; and (4) a designation as in § 3282.166(a). In the administrative complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

(b) *Paragraphs; Separate Statements.* All assertions of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number thereafter. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth. In addition, each fact to be determined is to be set forth in a separate lettered or numbered paragraph.

(c) *Adoption by Reference: Exhibits.* Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

§ 3282.169 Defenses and objections.

(a) A defendant shall serve his answer within 20 days after the service of the administrative complaint upon him.

(b) Every defense, in law or fact, to a claim shall be asserted in the answer including the following: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; (5) failure to state a claim upon which relief can be granted. No defense or objection is waived by being joined with one or more other defenses or objections in an answer. No counterclaim shall be permitted.

(c) The defenses specifically enumerated in paragraph (b) of this section and a motion for decision on the pleadings or summary decision shall be heard and determined before the hearing on the merits on application of any party unless the Judge otherwise directs.

(d) *Waiver or Preservation of Certain Defenses.* (1) A defense of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived if omitted from the answer or an amendment thereof permitted by § 3282.170 to be made as a matter of course.

(2) A defense of failure to state a claim upon which relief can be granted and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered or by motion for decision on the pleadings, or at the hearing on the merits.

(3) Whenever it appears that the Department lacks jurisdiction of the subject matter, the Judge shall dismiss the action.

§ 3282.170 Amended and supplemental pleadings.

(a) *Amendments.* The Department may amend its administrative complaint once as a matter of course at any time before an answer is served and a party may amend his answer once as a matter of course at any time within 20 days after it is served unless the action has been scheduled for a hearing on the merits. Otherwise a party may amend his pleading only by leave of the Judge or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless otherwise ordered by the Judge.

(b) *Amendments to Conform to the Evidence.* When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after decision; but failure so to amend does not affect the result of the hearing on these issues. If evidence is objected to at the hearing on the ground that it is not within the issues raised by the pleadings, the Judge may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The Judge may grant a continuance to enable the objecting party to meet such evidence.

(c) *Relation Back of Amendments.* When ever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him, the party to be brought in by amendment (1) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him.

(d) *Supplemental Pleadings.* Upon motion of a party the Judge may, upon reasonable notice and upon such terms

as are just, permit him to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the Judge deems it advisable that the adverse party respond to the supplemental pleading, he shall so order, specifying the time for such response.

§ 3282.171 Intervention.

(a) The Judge upon timely written application shall permit anyone to intervene when the applicant claims an interest relating to the property or transaction which is the subject of the administrative action and he is so situated that the disposition of the administrative action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) The petition for intervention shall contain:

(1) The petitioner's relationship to, and interest in, the matters involved in the proceeding;

(2) A concise statement of the petitioner's position with respect to each specific issue upon which he proposes to intervene, and of the facts which he proposes to adduce in support of each such position; and

(3) The petitioner's assent to the exercise of jurisdiction by the Department over him or her.

(c) The Judge shall determine the propriety of such intervention and the extent to which such intervenor may participate, basing such determination upon the directness and substantiality of the petitioner's interest in the administrative action and the effect upon the administrative action of allowing such participation. If intervention is permitted the Judge shall name such party as a plaintiff or as a defendant.

§ 3282.172 Discovery—generally.

(a) Except as provided for by these regulations no discovery is permitted unless agreed to by the parties or unless ordered by the Judge for good cause shown. No motion concerning any aspect of discovery may be made unless such motion is accompanied by a signed certificate by the party making such motion or his attorney which: (1) states that, after personal consultation with the other party or his attorney, the parties have been unable to reach agreement; and (2) states the time and date of such consultation.

(b) Any motion for an order permitting discovery must be accompanied by copies of all discovery papers (interrogatories, notices of depositions, etc.) which the party desires to file.

(c) Except in cases where a motion for an expedited proceeding is filed pursuant to § 3282.159 all requests for discovery and all motions for orders permitting discovery must be filed within 30 days after the date on which the answer is filed, unless otherwise ordered by the Judge for good cause shown. In cases where a motion for an expedited proceeding has been filed pursuant to § 3282.159 all motions for orders permitting discovery must be filed by the date on which the response to the motion for an expedited proceeding is due. If the motion for an expedited proceeding is denied then requests for discovery and additional motions for orders permitting discovery may be filed within the time otherwise prescribed by these regulations.

(d) The parties may agree to permit the following types of discovery or the Judge may order such discovery for good cause shown: depositions upon oral examination or written questions; written interrogatories; and production of documents or things or permission to enter upon land or other property for inspection and other purposes.

(e) In ordering discovery the Judge may place such limits thereon as the Judge deems reasonable.

§ 3282.173 Discovery as a matter of right.

Discovery provided for in this section (§ 3282.173) is available as a matter of right and without agreement of parties and without order by the Judge. The frequency of use is not limited.

(a) *Discovery relating to experts.* (1) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at any hearing, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify along with a summary of the grounds for each opinion.

(2) A party may also require through interrogatories the identity of any reports or other documents prepared by any expert in preparation for the case.

(3) A party is under a duty to amend and supplement his or her answers to interrogatories relating to experts in order to correct inaccuracies and provide new information.

(4) If a party has been asked to identify expert witnesses then that party may present expert testimony only by those individuals who have been identified unless otherwise ordered by the Judge for good cause shown.

(5) If a party has been asked to state the subject matter on which an expert is expected to testify and/or to state the substance of the facts and opinions to which the expert is expected to testify then that party may present expert testimony only with respect to the matters contained in his answers to such interrogatories unless otherwise ordered by the Judge for good cause shown.

(b) A party may through interrogatories require any other party to identify each person who is to be called as a witness by such party. The name, home and work addresses and home and work telephone numbers of a witness may be required. No other information may be required as a matter of right.

(1) A party is under a duty to amend his answers to interrogatories relating to the names of witnesses.

(2) If a party has been asked to identify witnesses then that party may present testimony only by those individuals who have been named unless otherwise ordered by the Judge for good cause shown.

(c) *Requests for Admission.* (1) A party may serve upon any other party a written request for the admission of the truth of any matters concerning the pending action set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

(2) Each matter of which an admission is requested shall be seperately set forth. The matter is admitted unless within 30 days after service of the request, or within such other time as the Judge may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney. If, however, the Judge shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 30 days after service of the administrative complaint upon him. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter

of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for hearing may not, on that ground alone, object to the request. The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the Judge determines that an objection is justified, he shall order that an answer be served. If the Judge determines that an answer does not comply with the requirements of this rule, he may order either that the matter is admitted or that an amended answer be served. The Judge may, in lieu of these orders, determine that final disposition of the request be made at a pre-hearing conference or at a designated time prior to the hearing on the merits.

(3) *Effect of Admission.* Any matter admitted under § 3282.173(c) is conclusively established unless the Judge on motion permits withdrawal or amendment of the admission. The Judge may permit withdrawal or amendment when the presentation of the merits of the action will be served thereby and the party who obtained the admission fails to satisfy the Judge that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under § 3282.173(c), is for the purpose of the pending action and for the purpose of any related action, administrative or otherwise, in which the same individuals or entities are parties.

(d) *Documents.* (1) A party may through interrogatories require any other party to identify each document or thing which is to be offered for evidence by such party. Except as permitted here and in § 3282.173(a)(2) the identity of no other document or thing may be required as a matter of right.

(i) A party is under a duty to amend and supplement his or her answers to interrogatories relating to the identity of documents or things which are to be offered for evidence in order to correct inaccuracies and provide new information.

(ii) If a party has been asked to identify documents or things which are to be offered for evidence then that party may offer for evidence only those documents or things which have been identified unless otherwise ordered by the Judge for good cause shown.

(2) A party may request the production of documents or things the identity of which is asked pursuant to § 3282.173(d)(1) or § 3282.173(a)(2). No other request for production is permitted as a matter of right.

§ 3282.174 Discovery—by agreement of the parties or by order of the Judge.

The regulations contained herein govern discovery which may be agreed to by the parties or ordered by the Judge except that the regulations governing interrogatories also govern the limited discovery which is available as of right pursuant to § 3282.173(a), (b) and (d) and except that the regulations governing requests for production also govern the limited discovery which is available as of right pursuant to § 3282.173(d). Unless the Judge orders otherwise, the parties may by written stipulation provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and the parties may by written stipulation modify the procedures provided by these rules for other methods of discovery.

(a) *Depositions.* The attendance of witnesses may be compelled by subpoena as provided in § 3282.157.

(1) A notice of deposition shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(2) The notice to a party deponent may be accompanied by a request made for the production of documents and tangible things at the taking of the deposition.

(3) A party may in his notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This provision does not preclude taking a deposition by any other procedure authorized in these regulations.

(4) *Examination and Cross-Examination; Record of Examination; Oath; Objections.* Examination and cross-examination of witnesses may proceed as permitted under the provisions of the Federal Rules of Evidence. The officer before whom the deposition is to be taken shall place the witness under oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. If requested by one of the parties, the testimony shall be transcribed. Any objections made at the time of the examination shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and he shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim. If the testimony is transcribed, the party who prepared the notice of deposition shall pay for any copies of the transcript which that party requests and for the original transcript (even if some other party requests that the testimony be transcribed). Each other party and the deponent shall pay for those copies which each requests.

(5) *Motion to Terminate or Limit Examination.* At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the Judge may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the Judge. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

(6) *Submission to Witness; Changes; Signing.* When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to

make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 10 days of its submission to him, the officer shall sign and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as though signed unless on a motion to suppress the Judge holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(7) *Certification and Filing by Officer; Exhibits; Copies; Notice of Filing.* (i) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. Unless otherwise ordered by the Judge, he shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall promptly file it with the Judge or send it by registered or certified mail to the Judge.

Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to the deposition, and may be inspected and copied by any party, except that if the person producing the materials desires to retain them he may (A) offer copies to be marked for identification and annexed to the deposition and to serve thereafter as originals if he affords to all parties fair opportunity to verify the copies by comparison with the originals, or (B) offer the originals to be marked for identification after giving to each party an opportunity to inspect and copy them, in which event the materials may then be used in the same manner as if annexed to the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the Judge, pending final disposition of the case.

(ii) The officer shall give prompt notice of the filing of the deposition to all parties.

(8) *Persons Before Whom Deposition May Be Taken.* Depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, or before a person appointed by the Judge. A person so appointed has power to administer oaths and take testimony. The term officer as used in § 3282.174 (a) and (b) includes a person appointed by the Judge or designated by the parties under the first paragraph of § 3282.174. A deposition may be taken before a person who is an employee of the Department.

(b) *Use of Depositions at Hearings.* (1) *Use of Depositions.* At the hearings on the merits or upon the hearing of a motion any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(i) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness, or for any other purpose permitted by the Federal Rules of Evidence.

(ii) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

(iii) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the Judge finds: (A) that the witness is dead; or (B) that the witness is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or (C) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (D) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (E) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(iv) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

(2) *Objections to Admissibility.* Subject to the provisions of § 3282.174(b)(3)(iii) of this rule, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(3) *Effect of Errors and Irregularities in Depositions.* (i) *As to notice.* All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(ii) *As to Disqualification of Officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(iii) *As to taking of deposition.* Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of a deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time. Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(iv) *As to Completion and Return of Depositon.* Errors and irregularities in the manner in which the testimony is transcribed or the depositon is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

(c) *Interrogatories to Parties.* (1) *Availability; Procedures for Use.* (i) Written interrogatories are to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party.

(ii) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after

the service of the interrogatories or within such other time as the Judge may allow. The party submitting the interrogatories may move for an order under § 3282.175 with respect to any objection to or other failure to answer an interrogatory.

(2) *Scope; Use at Hearing.* (i) Answers to interrogatories may be used to the extent permitted by the Federal Rules of Evidence.

(ii) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the Judge may order that such interrogatory need not be answered until discovery has been completed or until a pre-hearing conference has taken place or until some other later time.

(3) *Option to Produce Business Records.* Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, including a compilation, abstract or summary thereof, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. A specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained.

(d) *Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes.* (1) *Scope.* Any party may serve on any other party a request (i) to produce and permit the party making the request, or someone acting on his behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which are in the possession, custody or control of the party upon whom the request is served; or (ii) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon.

(2) *Procedure.* The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The party upon whom the request is served shall serve a written response within 25 days after the service of the request, except that a defendant may serve a response within 30 days after service of the administrative complaint upon that defendant. The Judge may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under § 3282.175 with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested. A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

§ 3282.175 Sanctions for failure to make discovery.

(a) A party, upon reasonable notice to other parties and all persons affected thereby, may apply to the Judge for an order compelling discovery if a deponent fails to answer a question as part of an oral or written deposition or if a corporation or other entity fails to designate a person to testify on its behalf at a deposition or if a party fails to answer an interrogatory or if a party fails to permit inspection as required in response to a request for inspection. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order. For purposes of this provision an evasive or incomplete answer is to be treated as a failure to answer.

(b) If a party or an officer, director or managing agent of a party or a person designated under § 3282.174(a)(3) to testify on behalf of a party fails to obey an order to provide or permit discovery the Judge may make such orders in regard to the failure as are just, and among others the following:

(1) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence; and

(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a decision by default against the disobedient party.

(c) If a party or an officer, director, or managing agent of a party or a person designated under § 3282.174(a)(3) to testify on behalf of a party fails (a) to appear before the officer who is to take his deposition, after being served with proper notice, or (b) to serve answers or objections to interrogatories after proper service of the interrogatories, or (c) to serve a written response to a request for inspection after proper service of the request, the Judge on motion may make such orders in regard to the failure as are just and among others he may take any action authorized in § 3282.175(b)(1), (2) and (3).

§ 3282.176 Consolidation.

When administrative actions involving a common question of law or fact are pending, a Judge may order a joint hearing of any or all the matters in issue in the action; he may order all the actions consolidated; and he may make such orders concerning proceedings therein as may tend to avoid unnecessary cost or delay.

§ 3282.177 Time.

(a) *Computation.* In computing any period of time prescribed or allowed by these regulations, or by order of the Judge, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this regulation, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States.

(b) *Enlargement.* When by these rules or by a notice given thereunder an act is

required or allowed to be done by or within a specified time:

(1) The parties may enlarge such time by agreement, however, such agreement shall have no effect unless it is evidenced by a writing which is filed with the Judge; and

(2) The Judge may, in his discretion and with or without motion or notice, order such time enlarged. The Judge may also enlarge any time period set by prior order of the Judge.

(c) *For Motions-Affidavits.* A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by these regulations or by order of the Judge. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, opposing affidavits may be served not later than 1 day before the hearing, unless the Judge permits them to be served at some other time.

(d) *Additional Time After Service by Mail.* Whenever a party has the right or is required to take some action within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

§ 3282.178 Pre-hearing procedure; formulating issues.

(a) In any administrative action, the Judge may in his discretion direct the attorneys for the parties to appear before him for a conference to consider

(1) The simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(4) The limitation of the number of expert witnesses;

(5) Such other matters as may aid in the disposition of the action.

(6) The Judge shall issue an order which states the action taken at the conference, which sets forth the amendments allowed to the pleadings, if any, which sets forth the agreements made by the parties as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the proceeding, unless modified at the hearing on the merits to prevent manifest injustice.

Conduct of Administrative Hearings

§ 3282.179 Authority and responsibility of the Judge.

(a) The Judge shall conduct a fair and impartial hearing, take all necessary action to avoid delay in the disposition of the administrative action and maintain order. In addition, he shall have all powers necessary to those ends including all powers granted under 5 U.S.C. 556(c), and also power including but not limited to the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive evidence;

(3) To regulate the course of the hearing and the conduct of the parties and their counsel;

(4) To hold conferences as necessary for the simplification and clarification of issues or any other purpose;

(5) To consider and rule upon, as justice may require, all procedural and other motions appropriate as part of an administrative action;

(6) To make and file decisions; and

(7) To receive relevant and material evidence, and exclude all irrelevant, immaterial or unduly repetitious evidence.

(b) In dealing with all procedural and evidentiary issues arising within the context of an administrative action the Judge may, to the extent it is not expressly provided for otherwise in these regulations, decide such questions in accordance with the Federal Rules of Civil Procedure and Federal Rules of Evidence.

(c)(1) No person shall communicate with a Judge or Appeals Officer either directly or indirectly concerning any pending proceeding unless prior to or simultaneously with such communication its contents are disclosed in detail to all persons interested in the proceeding. A Judge or Appeals Officer shall not request or consider any unauthorized ex parte communication. This prohibition shall not apply to a simple request for information respecting the status of the proceeding, nor any ex parte communication expressly authorized by these rules.

(2) Any Judge or Appeals Officer who receives an ex parte communication which he knows or has reason to believe is unauthorized, shall promptly place the communication, or its substance, in the public file and shall inform all persons interested in the proceeding of its existence and general contents. Facts, or arguments so communicated shall not be taken into account in deciding any matter in issue unless such facts or arguments shall be brought properly before the Judge or Appeals Officer.

(3) An opportunity to answer allegations or contentions contained in an unauthorized ex parte communication may be afforded any interested person upon his motion for leave to do so, whenever such leave will operate to assure a fair hearing or decision.

(d) When a motion is based on facts not appearing of record the Judge may hear the matter on affidavits presented by the respective parties, but the Judge may direct that the matter be heard wholly or partly on oral testimony or deposition.

(e) *Evidence.* (1) All witnesses at a hearing for the purpose of taking evidence shall testify under oath or affirmation which shall be administered by the Judge. Every party shall have the right to present such oral or documentary evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts. The Judge shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence.

(2) When offered evidence is excluded, the offering party shall be permitted to state on the record an offer of proof with respect thereto and rejected exhibits, adequately marked, shall on request of the party offering the same be retained in the record for purposes of review. Evidence may be received subject to deferred ruling on objections to its admissability.

(3) Objections to evidence shall be timely made and shall specify the particular ground of objection. Formal exception to an adverse ruling is unnecessary.

§ 3282.180 Scheduling of hearing.

The Judge shall attempt to schedule an administrative hearing on the merits to take place so that the presentation of evidence in the case will be concluded by the parties not later than 5 months after the answer has been filed. In scheduling such hearing the Judge may consult with the parties. A hearing may be scheduled later upon agreement of all parties or if the Judge, in his discretion, determines that it is reasonable to do so based upon the complexity of the case or other relevant factors.

§ 3282.181 Dismissal of actions.

An action may be dismissed by the plaintiff without order of the Judge by filing a notice of dismissal at any time prior to the commencement of the hearing on the merits. Unless otherwise stated in the notice of dismissal, the

dismissal is without prejudice. However, if an administrative complaint is again filed based upon the same cause of action, then a dismissal of that second acton is with prejudice unless all parties otherwise agree in writing as part of the notice of dismissal or unless otherwise ordered by the Judge.

§ 3282.182 Reporting and transcription.

Hearings shall be stenographically or electronically recorded. Such recording shall be transcribed. The original transcript shall be a part of the record and the sole official transcript.

(a) Corrections of the official transcript may be made pursuant to order of the Judge.

§ 3282.183 Briefs.

The Judge shall fix a reasonable time, generally not to exceed 30 days following the close of the presentation of the evidence, during which any party may file with the Judge proposed findings of fact, proposed conclusions of law, a proposed order and a brief in support thereof.

Civil Penalties

§ 3282.184 Amount of penalty.

Before the Secretary makes a final determination on the propriety and the amount of a proposed civil penalty, a defendant may, as otherwise provided in these rules, request a hearing on the matter. In determining the amount of the civil penalty under 42 U.S.C. 5410(a) the Judge may consider the following factors as well as other relevant factors:

(a) The seriousness of the violations;

(b) The number of violations;

(c) Whether the defendant had knowledge of the violation;

(d) Whether the defendant has a prior history of violations;

(e) The size of the defendant's business and the defendant's ability to pay a penalty;

(f) The readiness of the defendant to comply with the Act and regulations; and

(g) The deterrent value of the penalty as against future violations by the same manufacturer or dealer, and as againt violations by other manufacturers or dealers.

§ 3282.185 Existence of a claim.

(a) The United States has a claim against a manufacturer, dealer or other person liable for a civil penalty under 42 USC 5410(a) when: (1) the Office of Manufactured Housing Standards and such person or entity enter into an agreement establishing the amount of such penalty; or (2) when a decision establishing the amount of such penalty becomes final.

(b) A manufacturer, dealer or other person liable for a civil penalty must pay such penalty within 15 days after it becomes a claim by the United States pursuant to § 3282.185(a).

Decision

§ 3282.186 Written decision.

The Judge shall prepare and file a written decision which shall set forth his findings of facts and which shall set forth separately his conclusions of law thereon. Findings of fact shall include specific findings as to the existence or non-existence of each fact which was presented in the pleadings as one to be determined. If the decision is a determination on the propriety of a proposed civil penalty, such decision must state the amount of any civil penalty and the reasons why such civil penalty is appropriate. The Judge may also include as part of his decision an order if appropriate for the case.

§ 3282.187 Time for decision.

The Judge shall make and file his decision within a reasonable time, generally not to exceed: (a) 30 days after the expirtion of the time fixed pursuant to § 3282.183 where the decision is made following a hearing on the merits; (b) 15 days after a notice of default for failure to appear is filed; or (c) 50 days after the filing of a motion if the case is fully adjudicated on such motion. The Judge shall serve the decision on the parties.

§ 3282.188 Amendment.

Upon motion of a party made not later than 10 days after the service of the decision the Judge may amend or add to his findings of fact and/or conclusions of law and may amend the order, if any.

§ 3282.189 Default.

(a) When a party against whom a decision is sought has failed to answer or otherwise defend as provided by these regulations and that fact is made to appear by a notice filed with the Judge, the Judge shall prepare and file a decision as appears from the administrative complaint to be appropriate.

(b) After a notice of default has been filed an answer may not be received except: (1) if the party which filed such notice consents in writing filed with the Judge to the setting aside of the notice; or (2) if the Judge orders the notice set aside upon motion by the defaulting party and for good cause shown. Such motion to set aside the notice must be filed within 15 days after the filing of the notice. If a decision has been filed as a result of a default for failure to appear it may be set aside along with the notice.

§ 3282.190 Summary decision.

(a) *Filing.* At any time after commencement of an administrative action and before the scheduling of a hearing on the merits, a party to the action may move the Judge to render summary decision disposing of all or part of the action.

(b) *Grounds.* A motion for summary decision shall be granted only if the entire record, including the pleadings, depositions, answers to interrogatories, admissions and affidavits, shows:

(1) That there is no genuine issue as to any material fact; and

(2) That the moving party is entitled to summary decision as a matter of law.

(c) *Form of motion and affidavits.* The motion may be supported by affidavits or other verified documents, and shall specify the grounds showing the party's right to the relief sought. Supporting and opposing affidavits shall be made on personal knowledge and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or be incorporated if not otherwise a matter of record. The Judge may permit affidavits to be supplemented or opposed by testimony, depositions, answers to interrogatories, admissions or further affidavits. When a motion for summary decision is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or otherwise must set forth specific facts showing that there is a genuine issue for hearing. If he does not so respond, summary decision, if appropriate, shall be entered against him.

(d) *Case not fully adjudicated on motion.* If a motion for summary decision is denied in whole or in part, and the Judge determines that an evidentiary hearing of the case is necessary, he shall, if practicable, and upon examination of all relevant documents and evidence before him, ascertain what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, and direct such further proceedings as deemed appropriate.

§ 3282.191 Decision becomes final.

The decision of the Judge shall become final 30 days after filing unless an appeal brief is filed pursuant to § 3282.194.

§ 3282.192 Relief from decision or order.

(a) *Clerical Mistakes.* Clerical mistakes in decisions, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the Judge at any time of his own initiative or on the motion of any party and after such notice, if any, as the Judge orders.

(b) *Mistakes; Inadvertance; Newly Discovered Evidence; Fraud, etc.* On motion and upon such terms as are just, the Judge may relieve a party or his legal representative from a final decision, order, or proceeding for the following reasons: (1) mistake or inadvertence; (2) newly discovered evidence which by due diligence could not have been discovered previously; (3) fraud, misrepresentation, or other misconduct of an adverse party; or (4) any other reason justifying relief from the operation of the decision. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than nine months after the decision, order, or proceeding was entered or taken. A motion under § 3282.192(b) does not affect the finality of a decision or suspend its operation.

§ 3282.193 Public inspection and indexing.

All final decisions and orders implementing such decisions shall be available for public inspection and copying at the Office of Manufactured Housing Standards. An index of all such decisions and orders shall be maintained and continuously updated and shall be published, distributed and/or made available as required by 5 U.S.C. 552(a)(2).

Review

§328.194 Appeal from decision of Judge.

(a) The Judge's decision may be appealed by filing a written appeal brief with the Docket Clerk for Administrative Proceedings within 30 days after service of the decision appealed from. Copies of the brief shall be served on all parties. The brief shall specify, in separate numbered paragraphs each issue upon which the appeal is based.

(b) A brief in reply to an answering brief, limited to rebuttal of matters in the answering brief, may be filed within 7 days after receipt of the answering brief. No answer to a reply brief will be permitted.

(c) Ex parte communications with the Appeals Officer are subject to the restrictions set forth in § 3282.179(c).

§ 3282.195 Answering brief.

Within 30 days after service of the appeal brief upon a party, such party may file an answering brief conforming to the requirements of § 3282.196.

§ 3282.196 Length and form of briefs.

A brief shall not exceed 35 pages in length except by order of the Judge or the appeals officer and shall contain, in the order indicated, the following:

(a) The title of the proceeding, file number, the name of the party on whose behalf it is submitted and the name and address of the attorney in the matter on the front cover or title page.

(b) Subject index with page references.

(c) Table of cases alphabetically arranged, statutes, texts, and other authorities and materials cited, with page references.

(d) A concise statement of the facts of the case, without argument.

(e) A concise statement of the questions sought to be raised.

(f) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question with specific page references to the record so far as available, and to legal authority or other material relied upon in support of statements contained in the argument.

§ 3282.197 Oral argument.

Oral argument shall not be permitted unless ordered by the Appeals Officer in his or her sole discretion. The Appeals Officer may order that oral argument be recorded.

§ 3282.198 Decision on appeal or review.

(a) Upon appeal from or review of a Judge's decision, the appeals officer will consider such parts of the record as are cited or as may be necessary to resolve the issues. All appeals and reviews shall be determined upon the record made before the Judge.

(b) The Appeals Officer may affirm, reverse, modify or set aside, in whole or in part, the Judge's decision or remand for further proceedings. The appellate order shall set forth the reasons upon which the decision is based. The Appeals Officer shall endeavor to serve his decision on the parties not later than 35 days after the filing of the reply brief.

(c) The decision of the Appeals Officer shall be final at the time of service upon the parties.

(d) Any issue which could have been raised before the Judge or the Appeals Officer which is not timely raised may not later be raised before the Judge, the Appeals Officer or in any further proceedings.

§ 3282.54 [Amended]

24 CFR 3282.54 is amended by deleting paragraphs (b), (c) and (e) and by redesignating paragraph (d) as paragraph (b).

24 CFR 3282.206 is revised to read as follows:

§ 3282.206 Disagreement with IPIA or DAPIA.

Whenever a manufacturer disagrees with a finding by a DAPIA or an IPIA acting in accord with subpart H of this Part the manufacturer may bring such disagreement to the attention of the Office of Manufactured Housing Standards. However, the manufacturer shall not produce manufactured homes pursuant to designs which have not been approved by a DAPIA or produce manufactured homes which the relevant IPIA believes not to conform to the standards. This section does not apply to manufacturers acting under the transition certification program set out in § 3282.207.

24 CFR 3282.309 is revised to read as follows:

§ 3282.309 Hearings held by SAAs.

(a) When an SAA is the appropriate agency to hold a hearing or presentation of views under § 3282.407 of subpart I, the SAA shall follow procedures substantially the same as those set out in subpart D, with the SAA acting as the Secretary otherwise would under that subpart.

(b) Notwithstanding the provisions of subpart D relating to the conclusive effect of a final determination, any party, in a proceeding held at an SAA under this section, including specifically the owners of affected manufactured homes, States in which affected manufactured homes are located, consumer groups representing affected owners and manufacturers (but limited to parties with similar substantial interest) may appeal to the Secretary in writing any Final Determination by an SAA which is adverse to the interest of that party. This appeal on the record shall be made within 30 days of the date on which the Final Determination was made by the SAA.

24 CFR 3282.356(b) is revised to read as follows:

§ 3282.356 [Amended]

* * * * *

(b) Interested persons may petition the Secretary in writing to undertake an investigation for the purpose of determining whether a primary inspection agency should be disqualified. The petition must set out all facts and information on which the petition is based and a detailed statement of why such information justifies disqualification.

* * * * *

§ 3282.407 [Amended]

24 CFR 3282.407(b) and (c) are deleted.

24 CFR 3282.407(d) is to be redesignated as 3282.407(b) and the words "Subpart D" are to be inserted in lieu of the words "paragraph (b)(4) of this section" which appear in the last paragraph of that subsection.

(Sec. 625, National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5424, and Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C. December 9, 1980.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

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Part VI

Department of Commerce

Bureau of the Census

Position on Adjustment of the 1980 Census Counts for Underenumeration

DEPARTMENT OF COMMERCE

Bureau of the Census

Position on Adjustment of the 1980 Census Counts for Underenumeration

Consistent with the May 13, 1980 directive of the Secretary of Commerce, the Bureau of the Census has now completed a thorough and open review of the census undercount adjustment issue and has arrived at a decision on adjustment of 1980 census results. The process leading to the decision included a review of preliminary results from the census; the eliciting of comments from Federal agencies and interested parties among the general public; the implementation of our 1980 evaluation efforts; and the initiation of further planning in this area designed to improve the measurement process.

This notice transmits the Census Bureau's decision on whether and how a statistical adjustment of census data should be implemented. This decision is presented independent of the pending judicial actions that may impose other procedures, timing, or applications.

Dated: December 11, 1980.

Vincent P. Barabba,

Director, Bureau of the Census.

Note.—This paper describes how the Bureau of the Census will treat the undercount adjustment question in the absence of judicial or congressional decisions to the contrary.

Executive Summary

Undercounting the population in decennial censuses has long been a concern of elected officials, researchers and the public. Prior to the 1980 census, such undercoverage became a major statistical issue in large part because of the distribution of large sums of Federal funds to State and local governments on the basis of decennial census data. This controversy has generated proposals, legislative initiatives, and lawsuits which would result in a statistical adjustment of 1980 census counts to include estimates for those believed to have been omitted from the actual enumeration.

The Bureau of the Census has committed itself to deal with the undercount issue in a careful, systematic, and open way, so that decisions on the questions of whether, when, and how to adjust for census undercount would be clearly understood, if not embraced, by all affected individuals and groups. The process employed was fully consistent with the directive of Philip M. Klutznick, Secretary of Commerce.

Paramount in the undercount adjustment decision, in the Bureau's view, is the completeness of coverage of the 1980 census. Therefore, the process was designed to provide adequate time for preliminary assessments of the contribution of the large investments that have been made in coverage improvement programs. Data now available show that these coverage improvement programs met with considerable success.

Indeed, preliminary field count data show an impressively larger count than anticipated on the basis of unadjusted precensus estimates. The official *estimate* of the population for April 1, 1980 was 221.7 million (the unadjusted 1970 census count plus births and net known immigration and minus deaths over the decade). Based on preliminary data for areas containing almost all of the nation's population we believe that the 1980 census count will fall within the range of 225.7 to 226.0 million. The Bureau's preferred demographic analysis estimate of the "true" population (exclusive of illegal residents) is near 226 million. Taken together, these figures indicate a tiny, or nonexistent measured undercount. In fact, as explained in Section II, there is some undercount, but it cannot be measured adequately because we have no method, at present, to measure the number of illegal residents. As a result, our best estimate of the "true" population does not include illegal residents. The apparent zero undercount results from the underenumeration of legal residents being offset by enumeration of illegal residents.

The improvement in the 1980 census count and the inability to accurately measure the size and distribution of the illegal population are the determining factors in the undercount adjustment question as far as the 1980 census counts are concerned. At present, the Bureau has no sound statistical basis for estimating the true undercount or introducing adjustments.

Therefore, were it not for the existence of a court order requiring an adjustment of the 1980 census data (Detroit lawsuit) the Bureau would not introduce adjustments for the undercount. Should that court order be reversed, the Bureau plans to report and certify to the President final tablulated census counts, with no statistical adjustment, as the official population data for use in apportionment of representatives in the House of Representatives and for all other official purposes. If permitted, the Bureau plans to publish the entire series of decennial census statistical reports without adjustment for undercount.

Well before the census data were available to dictate a decision on statistical grounds, the Bureau was engaged in a comprehensive, systematic assessment of the issue. The findings of the final stages of that process are an important adjunct of the current decision and in the determination of how the Bureau will deal with this issue in the future. In particular, in moving toward a decision, the Bureau carefully indentified the most critical assumptions that provide the basis for decisions about adjustment. These assumptions and the reactions to them represent a wide range of contributions made by many individuals and organizations outside the Bureau as well as through a major conference and two staff workshops on this subject.

The process revealed a continuing need for research and development in the area of undercount adjustment. Thus, while the regular census tabulation and publication programs proceed in accord with established guidelines, the Bureau's evaluation and undercount analysis programs will be accelerated. As in the past, undercount research findings will be published promptly and consultation with users and interested researchers will be initiated in many forums. Unlike the patterns followed in the 1970's and 1960's, however, the Bureau will directly utilize undercount research findings in its post-census estimates programs as warranted. That is, if contrary to our current expectations, the research and evaluation results indicate that undercount adjustments to specific areas would clearly improve the Bureau's overall postcensal estimates of the population and its characteristics, such adjustments would be introduced in postcensal estimates programs. Because most revenue-sharing and block grant programs use postcensal estimates in fund distribution, this decision would mean that adjusted data would be used in the distribution of funds through allocation programs.

In considering any such adjustments, the key criteria will be to adjust only when there is clear statistical evidence of overall improvement in accuracy. In the past, the Bureau has led the statistical profession by pointing out the strengths and limitations of the data it produces. In continuance of this tradition, the Bureau will provide, along with any significant adjustments, a package of supporting analyses, error measures where possible, specification of assumptions, as well as follow its

practice of dialogues with users and other interested parties.

Section I.—*Introduction.*

This document presents the conclusions arising from a systematic analysis and evaluation process designed to provide an appropriate decision on whether, when, and how to adjust population and related socioeconomic data generated by the U.S. Bureau of the Census to correct for underenumeration in the decennial census. The guidance of Secretary Klutznick on this subject and the principal steps and administrative framework for making the decision, adopted in response to his directive, are presented in Appendix A.

The prime factor in the undercount adjustment decision, of course, is the completeness of the 1980 census count, or, less positively, the estimated size and statistical methods available for measuring the census undercount. Section II of this document presents the latest information on the size of the population count and revised estimates of the "true" population based on demographic analysis. A list of articles, monographs and reports that provide definitions of terms, the analytic foundation and important evaluations of the statistical and conceptual aspects of the undercount issue is provided in Appendix B.

Although a decision not to adjust the census counts automatically follows from the data presented in Section II, the findings of an extensive process to reach a decision are relevant and important on the grounds that undercount adjustment may still prove to be desirable in the Bureau's post-census estimates programs. Therefore, Section III of this paper summarizes the general public comment arising from the assumption testing process. Section IV of this paper further analyzes the user reaction and the available evidence bearing on individual key assumptions underlying the undercount adjustment decision.

The final section of the paper summarizes grounds for the decision not to adjust the 1980 census counts of population and related socioeconomic data for undercount, and explains briefly the Bureau's ongoing commitment to undercount research and to improvement of our postcensal estimates.

The decision not to adjust the 1980 census counts was reached on the basis of technical and operational considerations in the context of comprehensive assessments of current and future user and stakeholder needs; it is, therefore, independent of the various pending judicial actions that may impose other decisions. This is particularly true for the Detroit lawsuit,[1] where a decision now under appeal would require adjustment of the 1980 census counts to be used to apportion the U.S. House of Representatives and to redistrict within States. Thus, this paper presents the decision that the Bureau will implement if permitted to do so by the absence of conflicting judicial decisions or congressional acts.

Section II.—*The 1980 census count and estimated "true" population.*

As part of its ongoing responsibilities, the Census Bureau developed an official estimate of the resident population of the United States for April 1, 1980, prior to the 1980 census. The Bureau's population estimates are developed using the "component method". This method starts with the previous census count, adds births and known net immigration, and subtracts deaths during the intervening period to obtain the official estimate for the relevant point in time. For the 1980 census date, this process led to an estimate that the enumerated population would total 221.7 million persons. That estimate provided a planning figure for the census. This method has worked well in past censuses to predict the final census count. As shown in the following tabulation, the final census count and the component method estimates were virtually identical for the 1960 census and within two-tenths of one percent for 1970.

[1] *Young* v. *Klutznick*, Civil Action 80-71330, U.S. District Court, Eastern District of Michigan.

Derivation of Resident Population Estimates

[In thousands]

	1950 to 1960	1960 to 1970	1970 to 1980
Starting census count	151,326	179,323	203,235
Plus: Births over the decade	+40,963	+39,073	+33,239
Plus: Net known immigration over the decade and net movement of Armed Forces to overseas posts	+2,645	+3,427	+4,474
Minus: Deaths over the decade	−15,608	−18,608	−19,275
Equals planning estimates for next census	179,326	203,614	221,673
Census count	179,323	203,235	.....
Difference	−3	−379	.....

NOTE.—The figures do not include any allowance for undocumented residents or net illegal immigration.

The component method does not make allowance for underenumeration in the previous census, so there is an undercount in the estimate for 1980. In the case of 1980, the postcensal estimate of 221.7 million is about 2 percent below the Bureau's preferred estimate of the "true" resident population as discussed in the section on estimates of the "true" population.

Preliminary 1980 Census Counts

Unlike the experience of 1960 and 1970, it is now clear that the 1980 census count will exceed the April 1980 population estimate by a very large margin. That expectation is based on preliminary field count figures for areas in which about 99.9 perent of the U.S. population resides. The preliminary tally of the population in those areas is 1.6 percent higher than the official estimates of the population residing in those geographic areas and the *minimum* final count for the Nation as a whole has reached 225.2 million. Because additional persons not in the preliminary field count tallies (such as late enumerations from the "Were You Counted" and local review programs, and additions from unclassified units) will also be included, the final count now is expected to be between 225.7 and 226.0 million persons.

This information, while preliminary, reliably shows that the 1980 census count will reflect significant gains in coverage over the 1970 experience and relative to the official precensal estimate. Indeed, the likely final count is more than 4.0 million above the official estimate and a final count of 226 million would represent the enumeration of 4.3 million more persons than the official estimate.

The apparent improvement in coverage doubtless resulted in part from the pervasive support of citizens, business, labor, the media and local, State and Federal officials. The improvement in coverage, however, is somewhat smaller than it appears from the summary estimates, since some unknown, and probably unknowable, number of illegal residents was counted in the census. To the extent that illegal residents were counted and to the extent that they are not reflected in the offical precensus population estimates,

they make census coverage impossible to calculate with an appropriate degree of reliability.

Estimating the "True" Population

The Census Bureau has maintained a strong and continuing undercount research commitment which has two prime objectives:

First, to improve its performance in subsequent censuses (and surveys), such as it clearly has done in 1980, by developing the fullest possible understanding of the sources and scale of underenumeration; and

Second, to inform users of the strengths and weaknesses of the data from each census so that this information might be taken into account in analytic and programmatic applications.

The goals of census-taking improvement and evaluation of the quality of data for various uses were well-served by the publication of analytic reports after the 1950, 1960, and 1970 censuses. These reports detailed the methodology, limitations, range of estimates, and, finally, discussed the "preferred" estimate of the level of undercount. In this process, the Bureau developed a "preferred" estimate of the Nation's "true" population using demographic analysis. (The "true" population minus the census count provides the estimate undercount). In 1970, the "true" population was estimated to be 208.5 million.

In the cases of undercount estimates for 1950 and 1960, the initial estimates of net national undercount were revised with the availability of comprehensive new data after the next census. The same procedure was to be followed in the present situation; that is, revised 1970 census undercount estimates were to be developed as soon as the relevant data were available from the 1980 census. However, because of the urgencies of the undercount adjustment issue, the Bureau accelerated all aspects of its review and revision of the 1970 census undercount estimates that could be done without the final census data for 1980 to ensure that all relevant data were used to address the undercount adjustment issue.

This review indicated that the estimated net undercount for 1970 was overstated by approximately 800,000 persons (Appendix C). This new information, together with other recent statistics and analysis, led to net reduction of almost 200,000 in the estimate of population growth for the period of 1970–1980. These changes left the "preferred" estimate of the Nation's "true" legal resident population as of April 1, 1980 at around 226 million (based on demographic analysis).

This estimate of the "true" population, which relies on the demographic method, ignores the accepted fact of a significant increase in the number of illegal, "undocumented" residents in the United States between 1970 and 1980; the unknown and currently unmeasurable level of this undocumented population resident in the United States; and the high probability that the illegal population is meaningfully represented in the large increase in the population count over the official unadjusted population estimate.

The relative undercount probably was considerably smaller in 1980 than in earlier censuses but its extent and distribution cannot be reliably defined or estimated because we are not able to measure how many illegals were present and counted. In the absence of reliable information on illegals, and in light of the data now in hand, it is clear that the "true" population and, hence, the undercount for 1980 cannot be reliably estimated in the near term, if at all. Because of the much smaller measured undercount, it is our girm judgment on statistical grounds that adjustments for undercount are not in the public interest.

Section III.—*General public comment on undercount adjustment.*

The Census Bureau has come to its decision about adjustment for census undercount in as open and participatory a manner as possible. To that end, stakeholders in the public and private sectors have been invited to participate fully in the process of identifying, analyzing and discussing the issues. Each step of the process has been fully documented and reports have been published by the Bureau to encourage and solicit the fullest possible participation by interested parties.

This procedure is part of a tested process for dealing with relatively unstructured problems. As part of the process, two staff workshops were organized according to the guidelines of a decision-making system, in which participants were divided into groups according to contrasting views and positions. Each group surfaced assumptions and challenged the assumptions of other groups. Through this exercise, a wide range of views and issues emerged, and these were coupled to facts that strengthened or weakened specific assumptions as well as identified the individuals or segments of the public that supported these assumptions and have perceived stakes in the outcome of the decision process.

Following the second staff workshop on undercount adjustment held September 2–5, 1980, a document outlining the basis for the adjustment decision was produced. In *Proceedings of the Second Census Undercount Workshop* critical assumptions, supporting evidence and rebuttals that would need to be considered in addressing the question, "Should the Census Bureau adjust the 1980 Census results for purposes other than apportionment?", were spelled out in detail. In deciding whether or not to adjust census results, the Bureau assumed, based on Constitutional and statutory grounds, that only the unadjusted actual counts could be used for reapportioning the U.S. House of Representatives.[2]

The assumptions and rebuttals reflected our knowledge of the census operations, past undercounts, the many uses of census data and the concerns of users, and the state of the knowledge at the Bureau and among other statisticians of methods of measuring census undercounts and their reliability.

The document was widely circulated to stimulate reaction and comment: it was sent to all members of census advisory committees and to all Members of Congress; it was published on 2 consecutive days in the **Federal Register;** its contents were described to the press; the head of each Federal agency that uses census data received copies; and copies were distributed to all persons who requested them. This final pre-decision solicitation of views and reactions provided a wide range of comments.

Although any undercount adjustment would have many consequences throughout the decade, many comments centered on the implications of the decision for the distribution of Federal and State revenues to subordinate units of government on the basis of census and post-census data. Implications for research, program planning and other applications also were discussed in many comments. This section summarizes the general comments of stakeholders [3] on the assumptions the Bureau staff considered most critical in making the decisions on whether, when and how to adjust for the undercount.

Comments From Federal Agencies

As might be expected in light of their operational, administrative and public information uses of census data, comments from Federal agencies focused on the need for timeliness and internal consistency in census data. All

[2] See Section D, *Proceedings of the Second Census Undercount Workshop.*

[3] The individuals and institutions commenting are listed in Appendix D.

the agencies fully support efforts to improve accuracy, but they also indicated that adjustment procedures should not delay incorporation of new census data in their programs.

Because many Federal agencies are dependent on small area data for distributions of funds and planning programs dependent on small area data, if a decision to adjust were made, they urged adjustments for all levels of geographic detail. Several agencies noted that adjustments of 1980 data to increase accuracy would not necessarily ensure equity in the application of data in Federal programs. Some funding programs, for example, are based on change over time. Adjustments to attain greater accuracy in 1980 census data may in fact distort measures of change from data from 1970 or intercensal estimates. Thus, several agencies commented that without undercount adjustments of 1960 and 1970 census data, and intercensal estimates, validity of the application of adjusted 1980 census data would be vulnerable to judicial challenge.

In the interest of timeliness and consistency, Federal agencies generally support the issuance of one official set of unadjusted census data released without delay.

Comments From Minority Group Representatives

Responses from minority group representatives universally supported undercount adjustment for purposes of reapportionment and all applications in public programs, especially those involving fund distributions. Minority group representatives expressed the conviction that the census has significantly undercounted their populations and that adjustment for separate geographic areas is necessary for equitable political representation and program participation. Several of the groups, for whom no separate coverage estimates have been developed, urged that such estimates be developed and applied.

Comments From Technical Advisory Committee Members and Academics

Comments received from academic researchers reflected a general concern for accuracy and the timely release of census data. This user group relies on census data for analytical work and requires data that are internally consistent for characteristics as well as the population totals. Several comments reflected an awareness that the preliminary census results imply a relatively small undercount in the 1980 census and expressed concern that an adjustment procedure may introduce more error than is present in the actual (unadjusted) count. Several of the letters expressed opinions about delays in timing and possible misgivings about the technical accuracy of available adjustment methodologies. In a related area, depositions by experts in the statistical and demographic disciplines have expressed concern about the accuracy of undercount measurement.

Comments From Cities and Other Governmental Units

Comments from persons representing cities and regions varied considerably. Those cities that felt they would gain through an adjustment, based upon the assumption that the experiences from 1970 would hold true again in 1980, were strongly in favor of undercount adjustment. In the main, those favoring adjustment were "Snowbelt" cities, which have lost population recently. By contrast, "Sunbelt" cities, which have gained popuation, generally felt that an adjustment of census counts was not necessary, and that the coverage improvement procedures used in 1980 had worked to get a good count. Some expressed the concern that if an adjustment was done, the northern cities would gain more political power than they deserved.

Representatives from planning commissions strongly expressed their concern that consistency be maintained in the data, that is, internal consistency for 1980 census results at all geographic levels and for socioeconomic and housing characteristics as well as consistency over time, so that trend data would be preserved. One opinion expressed was that not only there not be an adjustment for undercount, but that there should be an adjustment to remove those undocumented aliens who were counted.

Public Comment

Comments were received from a few individual citizens. These uniformly were against adjustment; they generally felt that the count should reflect only the number of persons who made the effort to be counted. Some persons perceived that an adjustment in 1980 could lay the groundwork for the manipulation of future censuses for political reasons. One writer proposed that political subdivisions that felt they had not been properly counted share in the cost of a recount.

Section IV.—*Assessment of the validity of the assumptions.*

In this section, the key assumptions to undercount adjustment decisions are examined with reference to this basic question: *Should the Census Bureau adjust the 1980 Census counts for purposes other than apportionment?* A "Yes" answer to this question requires that facilitating, statistical and user-oriented assumptions be accepted as plausible. However, rejection of any major assumption because the rebuttals are stronger means that the answer to this question should be "No."

The assumptions are organized into three categories: the first one dealing with assumptions necessary to carry out the adjustment, the second with assumptions necessary to satisfy user needs, and the third with technical statistical assumptions. Critical individual assumptions are discussed individually on the pages shown in the margin below and the full detail of specific supporting material and rebuttals identified at the second staff workshop on undercount adjustment is reproduced in Appendix E. These are the same assumptions that appeared in the report on the September 1980 Workshop.

Critical Facilitating Assumptions

1. The Census Bureau is recognized as having the ability to objectively make and defend the appropriate decision on whether or not to adjust census data. If the adjustments are to be made, the Census Bureau should formulate the procedures. This will promote a high standard of statistical rigor and encourage the appropriate use of census results. (page 6 in Appendix E)

1a. A Census Bureau adjustment procedure would be recognized as legally acceptable, meeting professional standards and providing users with more accurate data and would be perceived as equitable. (App. E–4)

2. The Census Bureau will continually examine, evaluate, and share its understanding of undercoverage throughout the decade. (App. E–2)

Critical User-Oriented Assumptions

3. Recognizing the present limits of technical feasibility, affected parties will accept and find useful initial adjustments for larger geographic areas only, despite program requirements for data for smaller areas. (App. E–10)

4. In order for adjustment to improve program effectiveness, program agencies will require adjustment for key demographic characteristics, such as age and income, as well as for total population counts; adjustment for a limited number of key characteristics will satisfy the most important program needs. (App. E–13)

Critical Statistical Assumptions

5. The Census Bureau has the ability to develop a statistical and analytical methodology which will permit

adjustment of *critical variables* (e.g., selected subnational geographical units and selected characteristics) in a timely fashion. (App. E–3)

6. A simple synthetic adjustment procedure would not satisfy the Census Bureau's standards for accuracy. (App. E–8)

7. Given the estimated magnitude of the undocumented alien population and the fact that our policy was to count all residents, it is important to include the development of an estimate of their "true" number as part of the 1980 Census evaluation and statistical adjustment program of the Census Bureau. (App. E–14)

Critical Facilitating Assumptions

Assumption 1. The Census Bureau is recognized as having the ability to objectively make and defend the appropriate decision on whether or not to adjust census data. If the adjustments are to be made, the Census Bureau should formulate the procedures. This will promote a high standard of statistical rigor and encourage the appropriate use of census results.

The Bureau has systematically studied the undercount problem and took the lead in analyzing the problem and its consequences. The Bureau has the appropriate technical skills, resources, and specialized knowledge to develop and implement a procedure for adjusting census data, and, of equal significance, has the organizational responsibility via statute, administrative order and judicial interpretations. Most affected parties have strongly expressed their opinions that, if an adjustment is justified by statistical evidence, the Bureau should make the actual adjustment rather than anyone else. No one has questioned the Bureau's competence in this area, nor its objectivity or integrity. Official statistics issued by the Bureau are accepted by the public as impartial, and free of vested interests. However, more than one stakeholder felt that it was appropriate for the Courts to make the decision about whether or not to adjust, and that it was the duty of the Census Bureau to act upon that decision by providing appropriate methodology. It was also suggested that the only manner in which the Bureau could ensure appropriate use of data is to produce one set of adjusted estimates that are internally consistent. This assumption is warranted and facilitates a decision to adjust if it is justified on other grounds.

Assumption 1a. A Census Bureau adjustment procedure would be recognized as legally acceptable, meeting professional standards and providing users with more accurate data, and would be perceived as equitable.

This assumption is related to Assumption 1 and is warranted on essentially the same grounds. However, its acceptance is based on the care the Bureau has shown in the past in making similar decisions. In supporting this assumption, supporters recognize that the Bureau may decide not to adjust on the basis that the prime methods available to adjust have serious shortcomings; namely, estimates of undercount from demographic analysis are subject to unknown errors, especially in the net immigration component. Undercount estimates from the Post Enumeration Program surely will be subject to high sampling variances and nonsampling statistical and operational features that contribute to bias, some of which cannot be adequately measured by available techniques. Beyond measuring the undercount itself, studies of synthetic estimates used for subnational or sub-State distribution of adjustment have shown that any areas with undercount rates much above or below the national average would be adjusted in such a way that the error in the undercount adjustment would be high.

If an adjustment were to be made, however, responses to the Bureau (and the current experience of the Bureau in the courts) reveal that this would be acceptable to some groups and very unacceptable to others. The Census Bureau has stated that its concern is with accuracy and has taken the position that greater accuracy of the data would, by definition, provide greater equity. However, one respondent rejected this equation, saying that the Bureau was overly concerned with accuracy, that this concern would delay production of adjusted data, and that the delay in itself would be inequitable to the groups that were undercounted.

Assumption 2. The Census Bureau will continually examine, evaluate, and share its understanding of undercoverage throughout the decade.

This assumption is warranted but does not necessarily facilitate a decision to adjust. Clearly, the Bureau has the responsibility to continue to improve the state of the art by striving to achieve greater statistical accuracy in coverage estimates and in all other aspects of the quality of data. A continuing reevaluation of coverage would provide the flexibility to respond to methodological advances, new data, and changes in policies, programs, and enabling legislation. Furthermore, an ongoing program would permit expansion of the number and kinds of areas covered and would contribute to accuracy as more data and refined methods are employed.

If a revision were made, however, reevaluation would likely result in increased sets of revised numbers, and this would lead to confusion among data users as to which data sets should be used for various purposes. Most stakeholders need data with which they can plan and allocate resources for program uses relatively rapidly. They prefer that only one official set of data that is internally consistent be produced—and that needs for timeliness as well as consistency, over time and internally, be given due weight in the decision.

Critical User-Oriented Assumptions

Assumption 3. Recognizing the present limits of technical feasibility, affected parties will accept and find useful initial adjustments for larger geographic areas only, despite program requirements for data for smaller areas.

This assumption is warranted in the eyes of some stakeholders and unwarranted for others. For purposes of program administration, all users expressed their need for internally consistent data. That is, if adjustments are made, adjusted data are necessary for key socioeconomic characteristics as well as for all geographic levels. Some program managers, recognizing comprehensive adjustment is not currently possible, would prefer to have the unadjusted census results released for their uses. Unadjusted data clearly have the advantage of being timelier and internally consistent. Some programs require use of trend data, and for these purposes, census data should be consistent over time. The indications of a smaller relative undercount in 1980 than in 1970 and 1960 already poses a problem for such programs.

For those concerned about program participation, the demand for undercount adjustment of decennial census data stems in large part from the conviction that differential population undercoverage, especially of Black and Spanish-origin populations, produces serious inequity in the administration of Federal and State programs, especially those which distribute funds according to statistical formulas. Because data for small areas are frequently required, many participants argue that limited area adjustments are not adequate because stakeholders' program interests would be in constant conflict and that litigation and efforts to obtain administrative relief would be costly and erode confidence in the Nation's data resources. In this context, all Federal agencies and most participants indicated that adjustment should be

applied to *all* geographic levels which have program applicability.

Most program administrators' comments noted that unadjusted census data have been adequate in the past partly because they provide internally consistent figures for use in program administration and formula grants but mainly because there is no objective evidence that adjustment would necessarily improve equity in their programs.

Assumption 4. In order for adjustment to improve program effectiveness, program agencies will require adjustment for key demographic characteristics, such as age and income, as well as for total population counts; adjustment for a limited number of key characteristics will satisfy the most important program needs.

Government agencies are dependent on accurate, internally consistent distributions of the population for certain demographic characteristics in order to carry out major program directives. Thus, this assumption imposes a major constraint on a decision to adjust in that the time it may take to implement an adjustment would not satisfy agency needs for timely and internally consistent data.

Stakeholders have expressed their need for census data that are consistent for all characteristics and at all geographic levels. Adjustment for some characteristics but not others would not fill all the data requirements and would result in an inconsistent set of data. The result could be that users would apply some factor to the data for the remaining unadjusted characteristics in order to obtain "consistency," but such efforts could instead bring the data further from the truth. Thus, program agencies have indicated that if adjustment is warranted, program and research needs will dictate simultaneous adjustment of more than a limited number of key characteristics. On balance, this assumption is implausible.

Critical Statistical Assumptions

Assumption 5. The Census Bureau has the ability to develop a statistical and analytical methodology which will permit adjustment of critical variables (e.g., selected subnational geographical units and selected characteristics) in a timely fashion.

In light of the large census count, this assumption is not warranted. Furthermore, there is a concern within the professional statistical community that the work being developed on estimation of census coverage and on adjustment techniques is at the "frontier" and is not yet ready for implementation. On this general topic, Professor Ansley J. Coale, a prominent researcher on undercounts since the 1950's, said "I personally doubt that it would have been possible to provide good estimates [of undercount] of individual geographic areas in 1970; it appears clearly impossible in 1980." Professor T. James Trussell has stated "Since it cannot be convincingly argued that adjustment will produce results nearer the true distribution of the population of the United States, adjusted census counts should not be used for purposes of apportionment, redistricting, or distribution of Federal funds." In the summer of 1980, the Census Bureau assembled a panel of distinguished researchers to discuss the undercount adjustment issue. The consensus view of this panel was that the measurement of undercount by either the demographic method or by the Post Enumeration Program was not statistically defensible to use as the basis for adjusting census counts. Nevertheless, in the past, when the Census Bureau has been confronted with a significant information need, it has been able, over time, to develop a statistically acceptable procedure for generating the required information. As discussed in the conclusion, time for further research and methods development is needed to evaluate fully how undercount research findings can be properly introduced into the intercensal estimates program.

Assumption 6. A simple synthetic adjustment procedure would not satisfy the Census Bureau's standards for accuracy.

This assumption is related to Assumption 5 and is warranted for essentially the same reasons that Assumption 5 is rejected. In this context, Professor Nathan Keyfitz has said, "If the [measured] national undercount is 1 percent or less, it is my opinion that no means of measuring or distributing that undercount at the subnational level exists that is statistically defensible, given the data likely to be available for this decennial census." The Bureau's analyses of 1970 Census undercount show that geographic variation is substantial. The simple synthetic method is not sensitive to this variation, and can, in fact, introduce serious distortions not present in the unadjusted data. If the 1980 undercount for specific age/race/sex groups were shown to be proportionate among subnational geographic units, the simple synthetic method could be acceptable, but an even distribution of undercount is highly unlikely.

Assumption 7. Given the estimated magnitude of the undocumented alien population and the fact that our policy was to count all residents, it is important to include the development of an estimate of their "true" number as part of the 1980 Census evaluation and statistical adjustment program of the Census Bureau.

This assumption is warranted. The stated policy of the Census Bureau, based on historical interpretation of the Constitution, is to enumerate all residents of the U.S. regardless of legal status. Ultimately, a valid estimate of the undercount using demographic methods cannot be made without including an estimate of undocumented residents in the estimate of the "true" population. Since some undocumented residents were likely to have been counted in the 1980 Census, they must also be accounted for in the national population estimates for consistency in making an adjustment. This assumption was supported by most respondents; however, several stakeholders felt that an estimate of the illegal resident population should be developed in order to take them out of the population counted for apportionment purposes. The Bureau does not now have any adequate methodology to estimate the number of undocumented residents nationally or for geographic subdivisions and it may not be possible to derive an estimate of undocumented immigrants to be included in the estimated "true" population. This assumption precludes a decision to adjust the census counts in the current situation.

Section V.—*Conclusions.*

In summary, the Bureau now has considerable reliable information on the population count in the 1980 Census. These data indicate that the final census count will fall between 225.7 and 226 million persons, some 4.0 to 4.3 million more persons than suggested by the Bureau's precensus estimate. If, as now seems likely, the population count reaches 226 million, this figure will equal the revised estimate of the "true" population determined through demographic analysis—implying a measured undercount of zero. In fact, as explained in Section II, there is some undercount, but it cannot be measured adequately because we have no method, at present, to measure the number of illegal residents. As a result, our best estimate of the "true population does not include illegal residents. The apparent zero undercount results from the underenumeration of legal residents being offset by enumeration of illegal residents.

With improved coverage and the problem of illegal residents who cannot now be accommodated in the

demographic analysis technique the method of demographic analysis and its supporting data base are not sufficient to measure the undercount, and there is no assurance that any alternative methods would adequately measure the undercount. Indeed, non-Bureau experts in demography and statistics, and members of Census Bureau Technical Advisory Committees have generally concluded that, in light of the improved coverage indicated by the count, no reasonable and generally supportable rationale for adjustment of the census counts now exists.

In the absence of a current reliable method of measuring the undercount in 1980, it would be irresponsible to implement any undercount adjustment at the national, State or sub-State levels. Thus, unless otherwise directed by the courts or statute, the Bureau will not introduce any any undercount adjustment into the 1980 census counts. In compliance with existing statutory deadlines, the Bureau will report and certify to the President final tabulated census counts, with no undercount adjustment, as the official population counts for use in apportionment of representatives in the House of Representatives and for all other official purposes. The Bureau will publish the entire series of census statistical reports without adjustment for undercount.

Even with this decision dictated by the improved count, the concern about the undercount issue will remain. So, while census tabulation and publication programs are proceeding in accord with established guidelines, the census evaluation and undercount analyses programs will move ahead vigorously. Research on the undocumented residents problem will be given high priority and Bureau proposals to support research intiatives in the areas of emigration and immigration will be submitted for consideration for funding. As in the past, research findings will be published promptly and appropriate consultation with users and interested researchers will be initiated in many forums.

Unlike the patterns followed in the 1970's and 1960's, however, the Bureau will consider the direct use of research findings on the level of the undercount in its postcensal estimates programs. That is, if findings indicate that specific undercount adjustments would improve the Bureau's postcensal estimates of the population and its characteristics, such adjustment would be introduced in postcensal estimates programs.

In some respects, our approach would be similar to the Australian government's method of dealing with undercoverage. In Australia, as in the United States, population counts are used in allocation of electoral seats and funds to States. After the 1976 Census of Population in Australia, the Post-Enumeration Survey (PES) revealed substantial variation in amount of undercount between States. The census results, themselves, were published without any adjustment. However, based upon the results of the PES, it was decided that the population figures should be adjusted for undercount, that these adjusted figures should be used for allocation, and that the adjusted figures would be the official population figures updated annually in the population estimates series to be used for all purposes.

In Australia, adjustments based on age and sex were made to the State and the Local Government authorities levels. Overall, the 1976 figures were adjusted up by 2.7 percent. The Australians felt confident about the adjustments to the State level but not about those below the State level. However, on an area basis, no adjustment greater than 4 percent was made and no adjustments were negative. To provide smooth trend data, the figures for 1961 were left unadjusted, but those for 1966 and 1971 were adjusted up by 0.5 and 1.35 percent, respectively. (Thus, the historical series was smoothed but some underenumeration was left for 1966 and 1971.)

An Illustration of How Intercensal Adjustment Could Work

The Census Bureau develops national population estimates between censuses using the component method. In this method, the count from the last census is increased by births and net immigration in the period since the last census and reduced by deaths since the last census as in the simplified hypothetical example for a three-year period shown below:

Census count (Year T)	200.0
Plus: births from T to T+3	+6.0
Plus: net immigration from T to T+3	+.7
Minus: deaths from T to T+3	−3.7
Equals: current estimate (T+3)	203.0

The procedure, of course, is much more complex in terms of its detail (including as it does separate age, sex and race categories) and is modified or supplemented in a variety of ways (including use of administrative data and other estimation methods) for compiling population-estimates below the national level (such as for 39,000 geopolitical areas for general revenue sharing).

In the past, the Bureau has not introduced any adjustment for undercount in its postcensal estimates. In the future, adjustment for undercount may be undertaken if statistical standards and user needs are met by such an adjustment. To illustrate how any such adjustment might operate, a hypothetical example is provided in the tabulation below:

	Group [1]			Total
	1	2	3	
Census count (T)	150.0	25.0	25.0	200.0
Plus: undercount adjustment (T)	1.0	.5	.5	2.0
Plus: births (T to T+3)	4.4	.8	.8	6.0
Plus: net immigration (T to T+3)	.5	.1	.1	.7
Minus: deaths	−3.0	−.3	−.4	−3.7
Equals: Population estimate (T+3)	152.9	26.1	26.0	205.0

[1] The groups, for example, could be age, sex, and race categories.

Based on past Bureau policy, the base for postcensal estimates was the unadjusted census count. As noted above, that restraint will no longer apply and adjustment for undercount may be included in the base if statistical standards and user needs are met by such an adjustment. It cannot be said at this time whether undercount adjustment will or will not be made since it is contingent on the evidence of measurable undercounts and reasonable confidence that adjustments would improve the accuracy and utility of statistics. More discussion of this will be contained in forthcoming reports dealing with the evaluation of the current postcensal population estimates program, methods for improving these estimates during the 1980's, and the 1980 census results and procedures.

Concluding Comment

The notion of altering census figures to correct for deficiencies is probably as old as the Republic; it is said that Thomas Jefferson, in corresponding with his European friends about the 1790 Census, made red pencil additions to census figures he judged to be incomplete. The basis for doing that now, however, has surely changed in two centuries; to alter the figures, we must "get it right." Ideally, each challenge to the accuracy of a census should be accompanied by a proposed remedy; perfection is but a goal, but improvement is an obligation shared by all. *Introduction to Reasoning*, a book by Stephen Toulmin, Richard Rieke, and Allan Jarik, helped us address the need for a collective and transactive evaluation of the grounds for undercount adjustment; two paragraphs from the book clearly point to the direction the

Bureau has tried to take to identify its objectives.

Reasoning, then, comes into play as a means of providing support for our ideas when they are open to challenge and criticism. This is not to say that procedures of reasoning always take place later in time than the formation of the ideas that call them forth. Since reasoning (or the providing of good reasons) plays so important and widespread a part in our culture, we often begin to test our ideas in a critical manner and think over the available reasons for or against them as soon as we first have the ideas. In a form of thinking that might be called *intrapersonal communication*, we imagine ourselves sharing an idea with other people and rehearse the questions they might ask and the challenges they might make to our supporting reasons.

In the course of this rehearsal, we may be able to refine and improve on the reasons in support of the idea, and so we finally arrive at a point where we can "go public," confident in our ability to justify it. Or alternatively, we may find ourselves recognizing so many arguments against the idea that we decide to forget it altogether or never to make it public. In either case, the "transactive" character of reasoning is preserved, at any rate to the extent that we criticize it with an eye to its "visibility" within a collective debate—in terms of either how certain specific people would respond to it or in terms of some more overall picture of the kinds of people who might attack the idea. (Will our argument have to be presented to a jury, to a group of professional scientists, to a political meeting, or to whom?) So once again, the standards for judging even this "intrapersonal" reasoning must respect the claims of the forum in which it will eventually have to make its way.

The census undercount adjustment issue has brought the Census Bureau into a swirl of conflicting currents of legal, political, and technical ideas in search of the most appropriate statistical instruments to apportion political strength and economic resources. The search does not end with this report, nor with the considerable success of the 1980 census, nor with the Bureau itself. Statisticians engage in what is possible; legislators and legal scholars must help decide what is right and what is best. Debates about the census will continue, as they should, and they will help the Bureau achieve future improvements. Meanwhile, tens of thousands of people will use the census results for good purpose, because they have no equal.

Appendix A

May 13, 1980.

Memorandum for: Vincent Barabba, Director, Bureau of the Census

Through: Courtenay M. Slater, C.M.S., Chief Economist for the Department of Commerce

Subject: 1980 Census: Statistical Adjustment for Undercoverage

Apparent undercoverage in previous decennial censuses has led to widespread interest in the possibility of statistical adjustments to the 1980 census data. Extraordinary efforts have been undertaken by the Census Bureau to achieve the most complete coverage possible in 1980. The extent of any undercount will not be known for some months. You are now engaged in an active and systematic process of examining the validity of various methods of measuring and analyzing a possible undercount in the 1980 Census, as well as the desirability of making adjustments once the existence and extent of an undercount is determined. This process should continue with the following guidelines.

1. Planning for and execution of a program to evaluate census data should continue to be given high priority by the Bureau and should proceed as expeditiously as is consistent with good professional standards.

2. There should be full and frequent consultation with the Chief Economist and the General Counsel throughout this process.

3. Federal agencies and interested parties among the general public should be kept informed regarding the Bureau's examination of this issue and should be given adequate opportunity to comment on the approach being taken by the Bureau.

The culmination of this process should be a decision by the Director of the Census Bureau on whether and how any statistical adjustment should be made to 1980 census data. This decision should take full cognizance of the importance of:

(1) the need for confidence that any adjustment will produce more accurate information regarding the distribution of the population and the relevant characteristics of that population;

(2) the defensibility of any adjustment methodology that may be used;

(3) a continued public perception of the accuracy, reliability, and objectivity of census data; and

(4) the very great public need for accurate and timely data about the U.S. population and its characteristics.

Even if there were some basis for an adjustment of the population count to be used for apportionment of the House of Representatives, I do not believe that any adjustment can be made prior to the statutory deadline for the delivery of this information to the President. I do expect, however, that by the end of this calendar year, or shortly thereafter, you will be prepared to announce a decision on adjusting the census data for other uses.

I should appreciate receiving from you a detailed description of the process to be followed in arriving at the above decision, and shall expect you to take direct personal charge of this process.

Philip M. Klutznick,

Secretary of Commerce.

Appendix B.—References and Background Material

Discussion Toward the 1980 Undercount Adjustment Decision

1. Bounpane, Peter, and Meyer Zitter. "Technical Issues in Adjusting for the Census Undercount," presented at the 1980 Annual Meeting of the American Statistical Association, Houston, Texas: August 11–14, 1980.

2. Letter to the Honorable William Lehman, Chairman, Subcommittee on Census and Population, House Committee on Post Office and Civil Service, from the Comptroller General of the United States, November 9, 1978, GGD–79–7.

3. National Academy of Sciences, National Research Council, Assembly of Behavioral and Social Sciences, Committee on National Statistics, Panel on Decennial Census Plans. *Counting the People in 1980: An Appraisal of Census Plans.* Washington, DC: 1978.

4. Passel, Jeffrey S. and Jacob S. Siegel. "Measuring the Coverage of the Hispanic Population of the United States in the 1970 Census by Demographic Analysis," revised version of a paper presented at the 1979 Annual Meeting of the Southwestern Social Science Association, Fort Worth, Texas: March 28–31, 1979.

5. Siegel, Jacob S., Jeffrey S. Passel and J. Gregory Robinson. "Preliminary Review of Existing Studies of the Number of Illegal Residents in the United States," Working paper for the research staff of the Select Commission on Immigration and Refugee Policy, January 1980.

6. U.S. Bureau of Census. *Conference on Census Undercount, Proceedings of the 1980 Conference,* Washington, DC: July 1980. See especially:

"The Census Bureau Experience and Plans," Jacob S. Siegel and Charles D. Jones

"Adjusting for Decennial Census Undercount: An Environmental Impact Statement," Peter K. Francese

"The Impact of Census Undercoverage on Federal Programs," Courtenay M. Slater

"The Impact of the Undercount on State and Local Government Transfers," Herrington J. Bryce

"Should the Census Count Be Adjusted for Allocation Purposes: Equity Considerations," Ian P. Fellegi

7. U.S. Bureau of the Census. "Coverage of Population in the 1970 Census and Some Implications for Public Programs," *Current Population Reports,* Series P–23, No. 56, Washington, DC: U.S. Government Printing Office, 1975.

8. U.S. Bureau of the Census. 1970 Census of Population and Housing, *Evaluation and Research Program,* "Estimates of Coverage of Population by Sex, Race, and Age: Demographic Analysis" Issued February 1974, Reprinted June 1976.

9. U.S. Bureau of the Census. *Proceedings of the Census Undercount Workshop, September 5–8, 1979,* Washington, DC: October 2, 1979.

Framework for the Decisionmaking Process

10. Mason, Richard O. and Ian I. Mitroff, *A Primer for SAST: Strategic Assumption Testing and Surfacing for Strategic Management.*

11. Toulmin, Stephen, Richard Rieke and Allan Janik. *An Introduction to Reasoning.* New York: Macmillan Publishing Co., Inc., 1979.

Appendix C.—Revised Demographic Analysis Estimate of Corrected Population as of April 1, 1980

This Appendix provides an explanation of revisions in the demographic analysis estimate of the corrected population of the United States for April 1, 1980.

In a press release issued in April 1973, the Census Bureau announced its "preferred" estimate of the undercount in the 1970 Census at 5.3 million, or 2.5 percent of the 1970 population. This estimate was based on the method of demographic analysis, using principally the data then available on births, deaths, immigration and emigration, and Medicare enrollments. Combining the estimated undercount in 1970 (5.3 million) and the unadjusted postcensal estimate of the population for April 1, 1980 (221.7 million), provides the estimate of the corrected population on April 1, 1980, 227.0 million.

An improved estimate of the corrected population on April 1, 1980 has now been developed. Additional, empirically-based research, particularly relating to emigration, indicates that the corrected population for April 1, 1980 should be lower than 227.0 million. The new evidence indicates far higher estimates of emigration for the 1970–80 and 1960–70 decades than were employed in deriving the previous estimates of the corrected population for 1970 and for 1980. The other components have also been examined but reestimation of these components has a smaller effect on the estimates of corrected population. The table below sets forth modifications in the components underlying the estimates of corrected population:

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APP. C-2

(Figures in thousands)

1. Published 4/1/80 population estimate (1970 Census + 1970-80 components)			221,672
2. Plus: "Preferred" estimate of 1970 undercount			+5,328
3. Equals: Corrected 4/1/80 population			227,000
4. Adjustments based on newly incorporated data:			
a. Revision in estimate of emigration, 1960-70 (cohorts 5-64 on 4/1/70) Current figure: 181 (Foreign-born = 45 Native = 136) Revised figure for foreign-born = 981 Adjustment in foreign-born figure = 981 - 45 = 936	-936	-----	-813
b. Adjustment in corrected Medicare figure, 4/1/70	+123		
c. Revision in estimate of emigration, 1970-80 (all ages) Current figure: 360 (Foreign-born = 90 Native = 270) Revised figure for foreign-born - 730 Adjustment in foreign-born figure = 730 - 90 = 640	-640	-----	-172
d. Revision in estimate of migration from Puerto Rico, 1970-80	+244		
e. Correction for underregistration of births, 1970-80	+224		
5. Revised corrected population, 4/1/80			226,015

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Reestimates of emigration between 1960 and 1970, completed after the undercount estimates for 1970 were issued and, therefore, not integrated into the corrected estimates, indicate that emigration during this period was much greater than previously allowed. This recalculation of emigration, which was based on an analysis of the data on the foreign-born population in the 1970 and 1960 Censuses, indicates that emigration was about 936,000 greater than allowed in previous estimates.[a] In addition, a revised estimate of corrected Medicare enrollments for 1970, based on Mediare enrollments for 1975, raises the population 65 and over in that year by 123,000. The net effect of these adjustments is to lower the estimated undercount in 1970 from 5.3 million to 4.5 million.

A revised estimate of emigration for 1970–80 has also just been developed on the basis of a recently completed analysis of tabulations of the foreign-born population from the November 1979 and November 1969 Current Population Surveys. This analysis, which was supported by an analysis of the annual Alien Address registrations for 1970 to 1976 and an analyses of data on Social Security beneficiaries abroad, indicates an understatement in the previous estimate of emigration during the decade of 640,000. On the other hand, new data on migration between Puerto Rico and the United States between 1970 and 1980 raises the estimate of net movement from Puerto Rico to the United States employed previously by about 244,000. A reexamination of the birth statistics for 1970–80 indicated the need to make a small allowance for underregistration, amounting to 224,000.

The net effect of the revised estimates of immigration and emigration for the 1970–80 period and of a correction for underregistration of births for 1970–80 is to further reduce the corrected population for April 1, 1980 by 172,000. Taking the adjustments for the entire 1960–80 period into account results in a reduction of the corrected population for April 1, 1980 of 1.0 million, or from 227.0 million to 226.0 million.

The estimate of net immigration employed in developing the estimate of corrected population for 1980 does not include an allowance for the *net* immigration of illegals to that date. Deaths of illegals would be included in the death component, however. We do not have a satisfactory basis for estimating the number of illegal residents or the volume of net illegal immigration. We have been unable, therefore, to take account of them in our estimates of corrected population.

Appendix D.—Persons Commenting on Undercount Adjustment Assumptions

Comments on the key assumptions presented in the *Proceedings of the Second Census Undercount Workshop* were received from the individuals and institutions listed below:

Members of Census Technical Advisory Committees

—Samuel Preston, Chairman, Graduate Group in Demography, University of Pennsylvania
—Reynolds Farley, Population Studies Center, University of Michigan
—Charles Nam, Director, Center for the Study of Population, Florida State University
—Catherine Shaw Bell, Department of Economics, Wellesley College
—William Kruskal, Department of Statistics, University of Chicago
—Leon Pritzker, Anheuser-Busch Companies
—National Social Science and Law Foundation

Representatives of Cities and Areas

—Mayor, Montgomery, Alabama
—Senator Walter D. Huddleston, Kentucky
—Speaker Thomas O'Neill, Massachusetts, Boston Redevelopment Authority
—Congressman Bob Eckhardt, Texas
—Atlanta Regional Commission—Executive Director
—Atlanta Regional Commission—City of East Point
—Chattanooga Hamilton County Regional Planning Commission
—Cambridge, Massachusetts
—New York State
—Detroit Planning Department
—Detroit Executive Office
—City of Greensboro, Community Development Planning Division
—American Planning Association

Minority Interests

—Mexican American Legal Defense and Educational Fund (MALDEF)
—Puerto Rican Legal Defense and Education Fund
—Native American Rights Fund
—Louisiana Equal Opportunity Association
—Japanese American Citizens League
—Manoranjan Dutta, Professor of Economics, Rutgers University Member of Census Advisory Committee for Asian and Pacific Islanders

Other Government

—Department of Labor, Bureau of Labor Statistics
—Department of Health and Human Services, National Center for Health Statistics
—Department of Housing and Urban Development

Appendix E.—The Basic Question and Critical Assumptions

As noted in the introduction and discussed fully in section D, we have argued that Federal statutes do not permit us to adjust census results for purposes of apportionment, and are convinced that it is not operationally feasible to do so in accordance with timing requirements as set forth in Federal law.

Issues concerning adjustment go well beyond these purposes, however, and the resolution of those issues will have consequences throughout the decade. Principal among them is the distribution of Federal and State revenues to subordinate units of government on the basis of decennial census data, and on population and income estimates compiled regularly between censuses from other sources and linked in various ways to census results.

Through the workshop process many issues and assumptions were thoroughly discussed and debated (see Appendix B). This section examines only those considered most critical in making the decisions on whether, when, and how to adjust, without extensive discussion of specific end uses of census information. The format for discussing the critical assumptions provides key premises, supporting information, and possible rebuttals to the assumption. This approach is intended to encourage the reader to react to specific as well as general points; to defend, reject, or modify assumptions; or to present counterarguments. Although predispositions are not entirely avoidable, we have attempted to develop an approach that provides a reasonably neutral framework for comment.

The assumptions are examined with reference to this basic question: *Should the Census Bureau adjust the 1980 census results for purposes other than apportionment?*

A "Yes" answer to this question requires that certain critical assumptions be accepted as plausible.

If, however, the assumptions are rejected because the rebuttals are considered stronger, then the answer to this question should be "No."

These assumptions are organized around three broad premises and supporting statements shown on the following page and discussed later in terms of specific assumptions and rebuttals beginning on the pages noted in the margin. Background materials are listed in Appendix C.

Critical Assumption

The Census Bureau will continually examine, evaluate, and share its understanding of undercoverage throughout the decade.

Basis of Assumption

The Bureau has the responsibility to continue to improve the state of the art by striving to achieve greater statistical accuracy in coverage estimates.

Supporting Information

1. The Bureau has historically advanced the level of knowledge regarding undercoverage estimates.

2. An ongoing program permits expansion of the number and kinds of areas covered and would contribute to accuracy as more data and refined methods are employed.

3. The continuing reevaluation of coverage provides the flexibility to respond to methodological advances, new data, and changes in policies, programs, and enabling legislation.

4. This policy is in line with the traditional approach of revising and improving current data series.

5. Work is continuing on the development of undercoverage estimates for Hispanics, since this group may be affected by specific programs.

6. The present schedule of research and evaluation work calls for different pieces of information to become available at different points in time.

[a] Robert Warren and Jennifer Marks Peck, "Foreign-Born Emigration from the United States, 1960 to 1970," *Demography*, Vol. 17, No. 1 (February 1980), pp. 71–81.

Rebuttal

1. Once a revision is made, reevaluation will result in increased demands for revised numbers, and this will lead to confusion among data users as to which data sets should be used for various purposes.

2. The Bureau often neglects to anticipate the broad consequences of an issue. Thus an announcement of new findings which the Bureau regards merely as technical improvements may have widespread impact that the Bureau fails to recognize in advance.

3. Lack of congressional or administration support could result in budgetary constraints limiting the Bureau's work in this area.

4. Changes in type of funding or a reduction in funding for the census count in 1990 may occur if, for example, Congress argues that based upon 1980 results, adjustments are cheaper *and* more accurate.

5. The census count is recognized to be the best measure of the U.S. population. Doing anything to that count might not necessarily improve it.

Critical Assumption

The Census Bureau has the ability to develop a statistical and analytical methodology which will permit adjustment of *critical variables* (e.g., selected subnational geographic units and selected characteristics) in a timely fashion.

Basis of Assumption

In the past, when the Census Bureau has been confronted with a significant information need, it has been able, over time, to develop a statistically acceptable procedure for generating the required information.

Supporting Information

1. The need for credible employment statistics during the Depression era was the impetus for the development of sample survey methodology leading to the Current Population Survey.

2. General Revenue Sharing generated the need for current estimates of the population for 39,000 general-purpose governments.

3. The Bureau has experimented with and tested the following methodologies which have shown some promise:

a. Matching studies

b. Demographic analysis

c. Regression analysis or refined synthetic estimation

4. The Bureau is supporting research related to adjustment methodologies.

5. The Bureau has been able to rearrange priorities to expedite carrying out the Post Enumeration Program.

6. The Bureau will have available throughout the next 3 years the results of the Post Enumeration Program, which should provide the following:

a. Estimates of undercount for total population at the State level.

b. Estimates of undercount by region for age, sex, race, and Hispanic origin.

c. Information about undercount related to income, education, labor force, urban vs. rural, and metropolitan vs. nonmetropolitan areas that could be used in regression analysis or in refined synthetic estimation.

Rebuttal

1. Although the need to generate "adjusted" totals for geographic subdivisions has existed for the past couple of decades, the Bureau has not yet developed a procedure it is willing to implement today.

2. Results of the 1980 census test program, especially for Oakland and Richmond, indicate there are a number of difficulties in the match studies that still need to be resolved.

3. There is a stated concern within the professional statistical community that the techniques being developed are at the "frontier" and are not yet ready for implementation.

Critical Assumption

A Census Bureau adjustment procedure would be recognized as equitable, legally acceptable, meeting professional standards, and providing users with more accurate data.

Basis of Assumption

In the past, the need to provide adjustment procedures to take care of nonresponse and undercoverage biases has resulted in the development of statistically acceptable and useful procedures.

Supporting Information

1. Survey undercoverage in the Current Population Survey is adjusted for by using the ratio of survey estimates to independently derived population control totals. (The control totals are based on previous census data, which do not include adjustments for undercoverage in the census.)

2. To improve coverage in the 1978 Census of Agriculture, a direct enumeration of an area sample was used to supplement mailing lists. Since the sample data provided reliable estimates for State totals only, data for lower levels were not adjusted. Both adjusted State totals and unadjusted data below the State level were published. The size of the adjustment from the area sample was also published with the adjusted State data.

3. There currently is being developed an adjustment procedure (based on direct estimates of the undercount) for the national and State levels, using data which will be available from demographic analysis and the Post Enumeration Program.

4. A study of the effect of population adjustment on General Revenue Sharing allocations in two States showed that most areas tended to move in the direction of their "proper" allotment (although this means a decrease in allotment for most areas), "proper" being determined by both population and income adjustments.

5. The National Academy of Sciences' panel on decennial census plans concluded that "inequities resulting from the geographic differentials in the decennial census undercount could be reduced by adjustment of the data for underenumeration."

6. The courts, in the past, have upheld Bureau procedures because they could be shown to be neither arbitrary nor capricious.

Rebuttal

1. Currently there is no adequate methodology for measuring the quality (limitations) of adjusted figures at geographic levels below the State.

2. Studies of synthetic estimates have shown that any areas with undercount rates much above or below the national average would be adjusted in such a way that error rates for those areas would be high.

3. Estimates from demographic analysis are subject to unknown errors, especially in the net immigration component.

4. Examination of the effects of an adjustment procedure on allocation of funds will result in the realization that there are more "losers" than "winners."

Critical Assumption

The Census Bureau is recognized as having the ability to objectively make and defend the appropriate decision on whether or not to adjust. If adjustments are to be made, the Census Bureau should formulate the procedures. This will promote a high standard of statistical rigor and encourage the appropriate use of census results.

Basis of Assumption

The Bureau has long been recognized as an agency of unquestioned integrity. It has a history of systematically studying the undercount problem and took the lead in bringing the issue into the open. The Bureau has the appropriate technical skills, resources, and specialized knowledge to develop and implement a procedure for adjusting census data.

Supporting Information

1. Bureau leadership in this area will enhance the credibility of the results, in view of the Bureau's accumulation of information on the undercount not shared by other organizations.

2. Official statistics issued by the Bureau are accepted by the public as impartial and free of vested interests.

3. Legislators, program administrators, and courts of law give sanction to census data as official Government statistics.

4. Affected parties have strongly expressed their opinions that the Bureau should make the adjustment. No one has questioned the Bureau's competence in this area, nor its objectivity or integrity.

5. Through conferences and workshops, the Bureau encouraged discussion and debate on the adjustment issue so that all relevant information could be considered in arriving at a sound decision.

6. A large-scale Post Enumeration Program is in place and funded; it will provide the necessary information for adjustments for States and other subnational areas.

Rebuttal

1. Census statistics are in the public domain; users are free to accept, modify, or reject them (and sometimes do).

2. The judiciary has not always prescribed the use of decennial census figures when superior data are available from a source other than the Census Bureau.

3. Census data are used for a multitude of purposes; adjusted data are not appropriate for all of them. The responsibility for proper use of data, including appropriate adjustments, rests with the user.

4. There are other reputable institutions that can produce adjusted census data which would be acceptable for many purposes.

5. Equity is essentially a political issue, and the decision whether or not to adjust census data should be made by Congress, not by the Census Bureau.

Critical Assumption

A simple synthetic adjustment procedure would not satisfy the Census Bureau's standards for accuracy.

Basis of Assumption

The Bureau implements new statistical methods only when certain general standards of data quality can be satisfied.

Supporting Information

1. A most important criterion is that there should be some knowledge of the limitations of the data to reduce misuse of statistics that are not fully reliable.

2. The Bureau's analyses of 1970 census undercount show that geographic variation is substantial. The simple synthetic method is not senstive to this variation, and can, in fact, introduce serious defects not present in the unadjusted data.

3. If the undercount for specific age/race/sex groups were the same among subunits below the national level, the method would be acceptable.

4. The simple synthetic method is dependent on readily available independent estimates of undercount for population subgroups, and therefore provides no direct means for adjusting for undercounts of Hispanics.

5. Bureau research, and comparable studies by Canada for its census, demonstrate that adjustments by this method would produce more errors than superior methods that can be refined as more information is available from evaluation projects.

Rebuttal

1. The simple synthetic method is uncomplicated, easily understood, and timely. Its use would produce acceptable results on the average.

2. In view of the important and immediate uses of census results, adoption of the simple synthetic method will produce adjusted data quickly, and such data will correct for some of the most serious defects of unadjusted data.

3. The Bureau has an obligation to reduce statistical inequity even though the method used may not satisfy its highest standards of data quality.

4. The National Urban League recommends that synthetic adjustments be used for States and local areas and that the national undercount rate for Blacks be used for subnational adjustment for the Hispanic undercount.

5. Application of the simple synthetic method requires only that the null hypothesis be satisfied—that there is no *statistically significant* difference in undercoverage rates among geographic areas.

6. Alternatives to the synthetic method depend partly on demographic analysis, for which a number of questionable assumptions must be made to derive national undercount estimates.

7. According to the National Commission on Employment and Unemployment Statistics, adjustments for undercount in labor force statistics by use of the synthetic method would be smaller in magnitude than the adjustments the Census Bureau traditionally makes to account for underreporting of income and unemployment in its Current Population Survey.

Critical Assumption

Recognizing the present limits of technical feasibility, affected parties will accept and find useful initial adjustments for larger geographic areas only, despite program requirements for data for smaller areas.

Basis of Assumption

The demand for statistical adjustment of decennial census data stems in large part from the conviction that differential population undercoverage, especially of minorities such as the Black and Spanish-origin populations, produces serious inequity in the administration of Federal and State programs, especially those which distribute funds according to statistical formulas. Adjustment for States and large metropolitan areas, which should be feasible by 1982, will be an important step toward improved program administration.

Supporting Information

1. Population data, both counts and characteristics, are key elements in many formulas used to distribute billions of dollars in Federal funds annually.

2. Partial adjustments, such as for selected geographic areas and key characteristics, would satisfy some program requirements.

3. About one-third of the population lives in the 30 largest SMSA's, for which adjustment is expected to be feasible within 2 years.

Rebuttal

1. Limited adjustments are not adequate:

a. An adjustment would be of dubious utility unless it applied to all geographic levels for which stakeholders have a program interest.

b. Many Federal agencies indicate that adjustment should be applied to all levels for which they have program responsibility.

2. Census results without adjustment are adequate; unadjusted census data have been valuable in the past and will continue to be useful, partly because they provide internally consistent figures for use in program administration and formula grants.

3. The Census Bureau should be in the counting business. Its staff is the most competent and highly regarded in that field.

4. Going beyond an absolute count would be to go outside of the mission of the Census to try to solve the problems of society.

Critical Assumption

No currently available adjustment procedure will provide more accurate numbers than the actual counts for *all* units of government or down to the block level; therefore, adjustments to relevant geographic levels must be made over time as procedures are refined geographically.

Basis of Assumption

None of the currently known procedures have been tested for their capability to measure the undercount at all levels for all units of government.

Supporting Information

1. There is a stated concern within the professional statistical community that the techniques being developed are still in the experimental stage and are not yet ready for implementation.

2. Canadian experience with reverse record checks indicates that simple synthetic adjustment might not be appropriate for geographic subdivisions below the regional level.

3. Comparisons of demographic estimates for States with those computed by synthetic methods also raise doubts about the accuracy of synthetic adjustment for small areas.

4. Demographic estimates are available only for the Nation and are still developmental for the States.

5. Standards against which to measure and evaluate adjustment procedures are not yet available for the smallest geographic areas.

6. To make estimates for every unit of government involves an assumption that undercount rates from the sample area apply to areas not in the sample.

7. Even though more accurate numbers cannot be provided for all units, it is important to increase the accuracy of as many as possible; improving the level of accuracy of some numbers is better than leaving them alone. Demographic estimates of national undercount by age, sex, and race will be available in the spring of 1981. Estimates of the undercount, based on evaluation studies, for the States, the 30 largest SMSA's, and 10 cities, and for the Hispanic undercount at the national level, will be available in late 1981, and improvements in these estimates will be possible by 1983.

Rebuttal

1. Adjustments for smaller geographic areas could be made using various synthetic or regression techniques. Although the data might be of unknown accuracy, at least a complete set of "official" data would be available for program administration.

2. Multiple series of adjusted census data may be unacceptable to users of census data.

3. The Census Bureau may not be capable of handling the workload required to produce multiple sets of printed and taped census figures.

4. There would be "numerator-denominator" difficulties in Federal program implementation where unadjusted and adjusted figures had to be combined to produce rates and ratios for program analysis or fund allocation formulas.

5. Because of difficulties in producing small area detail counts and characteristics, publication of official data could be delayed with corresponding adverse effects on timely application of census results for policy planning and program implementation.

Critical Assumption

In order for adjustment to improve program effectiveness, program agencies will require adjustment for key demographic characteristics such as age and income; adjustment for a limited number of key characteristics will satisfy the most important program needs.

Basis of Assumption

Agencies are dependent on accurate distributions of the population by certain demographic characteristics in order to carry out major program goals.

Supporting Information

1. Adjustment for some areas and not others is acceptable for many programs.
2. Legislated programs are often targeted at specific segments of the population; for example, the Elementary and Secondary Education Act allocates funds on the basis of the number of children ages 5 through 17 in low-income families.
3. The distribution of General Revenue Sharing funds could be adjusted if and when adjustment factors are available for all geographic areas and for income.
4. Among the characteristics most commonly incorporated into funding formulas are race, age, per capita income, family income, and employment and unemployment.

Rebuttal

1. No timely adjustments are feasible:
a. Current methodology does not produce estimates of acceptable quality for the adjustment of characteristics.
b. The time it may take to implement an adjustment of this type will not satisfy agency needs for timely data.
2. A few adjustements are not enough:
a. Different adjustment techniques must be used for various characteristics. This will result in a combination of adjustment procedures ranging from very sophisticated to simple raking, and therefore, there may be inconsistencies in the data.
b. Program agencies have indicated the need for adjustment of many characteristics and will press for adjustment of more than a limited number of key characteristics.

Critical Assumption

Given the estimated magnitude of the undocumented-alien population and the fact that the Bureau's policy is to count all residents, it is important to include the development of an estimate of their "true" number as part of the 1980 census evaluation and statistical adjustment program.

Basis for Assumption

The stated policy of the Census Bureau is to enumerate all U.S. residents, regardless of legal status.

Supporting Information

1. Current interpretation of the Constitution indicates that the census should enumerate all residents.
2. Determining the legal status of respondents would be a complex legal undertaking and is not feasible or appropriate in a statistical activity such as the census.
3. Ultimately, a valid estimate of the undercount by demographic methods cannot be made without an estimate of undocumented residents in the estimate of the "true" population. Since some undocumented residents were likely to have been counted in the 1980 population census, they must also be accounted for in the national population estimates for consistency in making an adjustment.
4. Users of census data require complete information about all residents of the United States and its subnational areas.
5. Undocumented residents have an impact on economic and political life in the United States.
6. The speculative estimates of undocumented residents indicate this group may be a significant portion of the population. The number could be as high as several million.
7. Because of their reported concentration in certain areas of the country, the underenumeration of undocumented aliens could reduce political representation and funds allocated to certain States and cities.

Rebuttal

1. The Bureau does not now have a methodology to estimate the number of undocumented residents nationally or for geographic subdivisions, and the available evidence indicates an uneven geographic distribution of such persons.
2. It may not be possible to derive an estimate of undocumented immigrants to include in the estimated "true" population.
3. Including undocumented residents in the census or the undercount estimates may not be acceptable to Congress.
4. Even if no method is available to adjust for an undercount of undocumented aliens, that does not relieve the Bureau of the responsibility to adjust for other groups for which estimates are available.

[FR Doc. 80-38971 Filed 12-15-80; 8:45 am]
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federal register

Tuesday
December 16, 1980

Part VII

Department of Agriculture

Food and Nutrition Service

National School Lunch Program and Food Distribution Program; Emergency Provisions and Request for Comments

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

[Amdt. 43]

National School Lunch Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This Emergency Final Rule amends the requirement contained in the regulations on the national school lunch program (7 CFR 210.20) that the State Food Distribution (SFD) Advisory Councils collect food preference information in a format provided by FNS and modifies the requirement calling for the SFD Advisory Councils to gather food preference information through a survey of all the school food authorities in the State. On January 4, 1980, FNS published final rules concerning the establishment and functioning of advisory councils. The advisory councils must present their findings to the state educational agencies by January 15 of the following year. FNS has learned that because of the length of time needed to establish the advisory councils, many councils cannot survey all school food authorities in the state and meet the January 15 deadline. Further, FNS has been informed that the prescribed reporting format is burdensome and overly detailed. Completion of the form is needlessly complicating the data collection process.

DATES: Effective Date: This final rule is effective December 12, 1980.

DATE FOR COMMENTS: To be assured of consideration, comments must be received on or before March 16, 1981.

ADDRESS: Comments should be sent to: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–8386). Comments in response to this rule may be inspected at 500 12th Street, S.W., Room 610, Washington, D.C. during normal business hours (8:30 a.m. to 5:00 p.m., Mondays through Fridays).

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–8386).

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual during normal business hours (8:30 a.m. to 5:00 p.m., Mondays through Fridays).

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's memorandum 1955 to implement Executive Order 12044 and has been classified not significant.

On January 4, 1980, FNS published final rules concerning the establishment and functioning of advisory councils. The advisory councils must present their findings to the state educational agencies by January 15 of the following year. FNS has learned that because of the length of time needed to establish the advisory councils, many councils cannot survey all school food authorities in the state and meet the January 15 deadline. Further, FNS has been informed that the prescribed reporting format is burdensome and overly detailed. Completion of the form is needlessly complicating the data collection process.

Because of the difficulties attendant on the first year of operation, FNS has determined there is a need to alter the requirements set forth in the January 4, 1980 publication to facilitate the operation of advisory councils.

Comments will however, be accepted and analysed to determine the appropriateness of these amendments as permanent program requirements.

Bob Greenstein, Administrator, FNS, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because of the time constraints in implementing this amendment. According to the National School Lunch Program regulations, the SFD Advisory Councils must collect the required information by January 15, 1981 and the State findings and recommendations must be submitted to FNS by February 15, 1981. To ensure these required timeframes are met for this school year, this final rule must by published prior to the 90-day public comment period.

Further, pursuant to the Administrative Procedures Act, 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication in the **Federal Register**. Comments have been solicited for 90 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received any may amendments required can be published in the **Federal Register** as soon as possible.

The regulations governing the National School Lunch Program (NSLP) (7 CFR Part 210) set forth the responsibilities of the Food and Nutrition Service in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation and expansion of non profit school-lunch programs, as required by the National School Lunch Act.

Section 6 of the National School Lunch Act, 42 U.S.C. 1755, requires the Secretary of Agriculture to make available to States, for distribution to schools conducting nonprofit lunch programs, a national average value of donated foods or—where applicable—cash in lieu thereof.

To ensure that the foods donated to schools under this Act are based on the State commodity food preferences, section 6 of Public Law 95–166, enacted November 10, 1977, amended section 14 of the Act. That amendment requires each State Education Agency (SEA) to establish an advisory council to advise the SEA with respect to the needs of schools, relating to the manner of selection and distribution of food assistance for the school lunch program.

Accordingly, Amendment 35, which was published on January 4, 1980 (43 FR 996), added a new § 210.20 (7 CFR 210.20) to the National School Lunch Program Regulations which defines the responsibilities of the advisory councils. The SFD Advisory Councils are required to meet at least once a year after the school year beginning July 1, 1980. Their responsibilities include obtaining information on the most desired foods, least desired foods and recommendations for new products, through a survey of all the school food authorities in the State. These findings and the advisory council's food preference recommendations are to be submitted to the SEA no later than January 15 of each year. The SEA will, in turn, notify FNS of the advisory council's findings and recommendations.

FNS is required to summarize these State reports into a national analysis of food preferences which will be used as a guideline for the Department's purchase of foods for distribution to school.

FNS anticipates that through the SFD Advisory Councils' surveys, accurate and in-depth information relating to donated food preferences will be received.

To further ensure that the information supplied is most responsive to FNS' needs yet is a feasible task for the SFD Advisory Council to perform on a yearly basis, the following provisions are added to Section 210.20.

Survey of School Food Authorities

The SFD Advisory Council will determine both the method and the scope of the survey implemented to obtain the information required by this amendment. The advisory council will select and survey as many of the school food authorities in the State as it deems essential. Eliminating the requirement to survey all school food authorities ensures that the advisory council will have the flexibility needed to assess both its capabilities and the logistical factors within the State, such as urban/rural breakdown and size, and to then determine, based on the above information, the scope and the method of survey most appropriate to that State.

The State educational agency, when forwarding survey information obtained by the SFD Advisory Council, must indicate to FNS the number of school food authorities surveyed, the average daily participation in the NSLP achieved by schools under these school food authorities during the previous April, and the average daily NSLP participation for all schools within the State during that month. These additional data will provide FNS with information on the scope of each survey when it analyzes food preference data submitted by the State agencies. Thus, data from a State contacting a minimal number of school food authorities as compared to other States will not necessarily skew the national analysis pertinent to the purchase of a specific commodity item by the Department.

Survey Format

The SFD Advisory Council may use whatever format it determines to be most appropriate for gathering food preference information. FNS has already provided a format that includes both the required and recommended information that should be gathered. The advisory council will have the option of using FNS' format in its entirety, using select portions of it, or developing its own specific format. Further, these amended regulations do not prescribe the format to be used by the State educational agency when informing FNS of the advisory council's recommendations.

SFD Advisory Council Records

The amended regulations require the State educational agency to maintain records of the SFD Advisory Council's methods and format for obtaining school food preferences, as well as a list of the school food authorities surveyed and records of the data obtained. This information will be reviewed by FNS during management evaluations to assess the effectiveness of the survey and to verify food preference data submitted to FNS.

Accordingly, § 210.20 of Part 210 of Title 7 CFR is amended by revising the last sentence of paragraph (a) and the first sentence of paragraphs (d) and by adding paragraph (d–1) and (d–2) as follows:

§ 210.20 State food distribution advisory councils.

* * * * *

(a) * * * The State agency shall inform FNS of the SFD Advisory Council's recommendations no later than February 15 of each year after the school year beginning July 1, 1980.

* * * * *

(d) The responsibilities of SFD Advisory Council shall include but not be limited to providing the State agency, no later than January 15 of each year, the following information to be obtained in a survey of school food authorities within the State. * * *

* * * * *

(d–1) In reporting the SFD Advisory Council's recommendations in accordance with paragraph (a) of this section, the State agency shall include:

(1) The number of school food authorities that provided the required information to the SFD Advisory Council;

(2) The average daily number of lunches served by schools of these school food authorities during April of the previous year; and

(3) The average daily number of lunches served by all school food authorities within the State during April of the previous year.

(d–2) The State agency shall maintain records concerning the survey of school food authorities required by paragraph (d) of this section, including, but not limited to:

(1) A description of survey methods and a copy of the format used to obtain food preferences;

(2) The name and address of each school food authority included in the survey; and,

(3) A record of the data obtained from each school food authority.

* * * * *

Note.—The reporting and recordkeeping requirements contained in this rule are being submitted for approval by the Office of Management and Budget in accordance with the Federal Reports Act of 1942. This regulation will become effective on December 12, 1980. The reporting and recordkeeping requirements may be subject to revision prior to implementation if the requirements as presently formulated are not approved without change by the Office of Management and Budget.

Dated: December 11, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-38953 Filed 12-15-80; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 250

Food Distribution Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Prenotice; review of existing regulations under E.O. 12044.

SUMMARY: The Food and Nutrition Service is soliciting comments concerning a revision of the regulations for the Food Distribution Program (7 CFR Part 250) in accordance with Executive Order 12044.

DATE: To be assured of consideration, comments must be received on or before February 17, 1981.

ADDRESS: Comments should be sent to: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. Comments in response to this notice may be inspected at 500 12th Street, S.W., Room 610, Washington, D.C., during normal business hours (8:30 a.m. to 5:00 p.m. Mondays through Fridays).

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, telephone 202–447–8386.

SUPPLEMENTARY INFORMATION:

Introduction

The regulations governing the Food Distribution Program (7 CFR Part 250) outline the responsibilities of the Food and Nutrition Service (FNS) and state agencies concerning the distribution and use of federally donated foods. The current regulations reprinted in this issue of the **Federal Register**, provide for the distribution of donated foods to a variety of domestic outlets, including entities participating in the child nutrition programs and nutrition programs for the elderly, charitable institutions, nonprofit summer camps for children, and certain low-income households and disaster organizations.

As required by Executive Order 12044, Part 250 was scheduled for review in accordance with the Department's response to the order published on November 1, 1978 (43 FR 50994). Upon review, it was determined that these regulations were in need of overall revision. A preliminary notice of intent to revise and republish the regulations appeared on June 22, 1979 (44 FR 36396). The republication of Part 250 set forth in this issue of the **Federal Register** consolidates the 42 amendments added since 1966.

FNS also published proposed amendments to Part 250 on processing of donated foods by commercial or institutional facilities on June 24, 1980 (45 FR 42303), with comments due on August 25, 1980. This comment period was extended to September 25, 1980. These comments are now being analyzed.

Since 1966, Part 250 has not been subjected to an in-depth analysis to determine if all provisions provide for efficient and effective administration of the Food Distribution Program. FNS has now reviewed these regulations to determine their adequacy and as a result is considering further revisions to strengthen existing provisions and, where applicable, include additional provisions to enhance program operations. Provisions which have been identified by FNS as being in need of revision or inclusion are discussed below.

Comments concerning the specific provisions identified below as well as comments on any other provisions contained in Part 250 which will assist FNS in developing regulations that will provide for a more efficient and effective operation of the Food Distribution Program will be greatly appreciated. All responses will be considered in preparing proposed regulations to be issued for further public comment.

Simplification

In an effort to simplify Part 250 the techniques described below for restructuring are being considered.

Provisions for the distribution and use of donated foods might be provided under separate parts as they relate to the programs which are being served (e.g., Part 250—Donation of Foods for use in Child Nutrition Programs; Part 251—Donation of Foods for use in Charitable Institutions; Part 252—Donation of Foods for use in the Elderly Feeding Program, etc.).

Alternatively, provisions could be provided under one part with separate subparts (e.g., Part 250—Donations of foods for use in United States, its Territories and Possessions and areas under its Jurisdiction; Subpart A, Section 250.1, Introduction; Subpart B, Section 250.2, Child Nutrition Programs; Subpart C, Section 250.3, Charitable Institutions; Subpart D, Section 250.4, Elderly Feeding Program, etc.). An example of this arrangement can be found in the Department of Health and Human Services' Regulations for Grants for State and Community Programs on Aging, Title III, Older Americans Act of 1965, 45 CFR Parts 1320, 1321, 1324, 1326, published on March 31, 1980 (45 FR 21126).

Use of a "question-and-answer" format is also being considered in lieu of the statement format currently used (e.g., "Which distributing agencies are eligible to participate in the Food Distribution Program?" "What are the obligations of the distributing agencies?" etc.). An example of this format is contained in the Federal Communications Commission's Citizens Band Radio Service Rules which were published on February 19, 1977 (47 CFR Part 95 Subpart D Pub. 42 FR 8332).

In addition, consideration is being given to eliminating quoted provisions of legislation, as currently included in Section 250.1(b), and merely citing relevant authorities by U.S. Code or Statute numbers.

Any comments concerning the restructuring of these regulations in a simpler manner will be appreciated.

Warehouse Facilities

Section 250.6(q) of the regulations requires distributing agencies, subdistributing agencies and recipient agencies to provide facilities for the handling, storage, and distribution of donated foods. The facilities must be such as to safeguard against theft, spoilage and other loss.

FNS is considering revising the regulations to require that a review of warehouse facilities be conducted by the distributing agency, subdistributing agency or recipient agency prior to contracting with a warehouse for the handling, storage, and distribution of donated foods to determine if the warehouse (1) is sanitary and free from rodent, bird, insect and other animal infestation; (2) can safeguard against theft, spoilage, and food losses; (3) can maintain foods at proper storage temperatures; and (4) can stock and space foods properly, use pallets, and take other protective measures.

Upon determination that the warehouse facilities are acceptable, an authorized representative of the warehouse and the distributing agency, subdistributing agency or recipient agency would sign a statement certifying that a review was conducted and the warehouse facilities were found to be acceptable. The certification statement would be renewed at the time the distributing agency conducts the annual onsite review of the warehouse facilities. Provisions relative to the annual onsite review will be discussed in the proposed rules amending Part 250 to establish a management evaluation system.

Comments are solicited concerning the extent of review needed to determine the acceptability of the warehouse facilities, whether FNS can facilitate these reviews by establishing standards for determining that a warehouse is sanitary, free from animal infestation, and if so, what these standards should be.

FNS is also considering requiring a written contract between the distributing agency, subdistributing agency or recipient agency and the warehouse. The contract could consist of: (1) a statement certifying that a review was conducted of the warehouse facilities by the distributing agency, subdistributing agency or recipient agency and found to be acceptable; (2) a statement to the effect that (a) the warehouse facilities will be maintained in such a manner that they will continue to be acceptable for the duration of the contract; (b) USDA foods will be stored separate from other foods, and (c) "first-in-first-out" procedures will be followed for donated foods; (3) the beginning and ending dates of the contract; and (4) insurance coverage the warehouse should be required to carry.

Comments concerning components which should be included in the contract will be helpful to FNS.

Correctional Institutions

There are presently no provisions in the regulations pertaining to correctional institutions, except in § 250.8(f), which concerns the eligibility of State correctional institutions for minors to receive donated foods under Section 210 of the Agricultural Act of 1956. This authority has become irrelevant since such institutions now qualify as schools for a broader range of donated foods under the National School Lunch Program. Section 210 also authorizes food donation to Federal penal and correctional institutions which are not governed by Part 250 since donations are made under an agreement between the Commodity Credit Corporation (CCC) and the Bureau of Prisons of the U.S. Department of Justice, with no FNS involvement.

Eligibility for food donations of State and local correctional institutions for adults is currently dealt with in FNS (FD) Instruction 706–3, *Eligibility of Adult Correctional Institutions in the Food Distribution Program.* This Instruction gives the criteria which must be met in order for State and local adult correctional institutions to be eligible to receive donated foods. Presently, the criteria are that such institutions must qualify as "charitable institutions" by virtue of their conducting rehabilitative programs, in which a majority of inmates participate at least 20 hours weekly. Under this instruction, qualifying adult correctional institutions are eligible as charitable institutions to receive donated foods on the premise that inmates in such institutions are in need of food assistance because of their lack of any legitimate means of livelihood. FNS has drafted a revised instruction which has been reviewed by FNS Regional Offices and is now in the clearance process. The proposed changes include: (1) a redefinition of "adult correctional institutions" to indicate that facilities holding inmates who are awaiting trial or sentencing may qualify for donated foods; the current definition restricts eligibility to facilities for sentenced inmates only; and (2) elimination of a requirement that a majority of inmates in a qualifying correctional institution must actually participate in rehabilitation programs at least 20 hours weekly; the revised instruction would require only that the institutions make available rehabilitative activities that are of sufficient scope to permit participation by a majority of inmates for at least 10 hours weekly. These changes are intended to permit more correctional institutions to benefit from Federal food donations and to simplify eligibility determinations and compliance review activities.

FNS plans to expand the regulations to incorporate the provisions of the revised FNS Instruction 706–3.

Comments concerning any additional or alternate criteria for use in determining the eligibility of adult correctional institutions to receive USDA-donated foods would be particularly helpful to FNS.

Nondiscrimination

Section 250.13(d) of the regulations subjects distributing agencies and recipient agencies to the Department's regulations effectuating Title VI of the Civil Rights Act of 1964 (Part 15 of this title) which prohibits discrimination on the grounds of race, color, or national origin.

FNS intends to expand the regulations to include specific criteria relative to public notification, compliance reviews, data collection, and proper complaint handling. This will bring Food Distributions into conformance with other FNS regulations. The agency is developing a Title VI Civil Rights Instruction which will provide specific complinace and enforcement procedures for Food Distribution Programs. This instruction has been sent to all FNS Regional Offices for review and comment.

Use of Program Funds

Section 250.6(k) concerns permissible use of funds derivied from the sale of donated food containers, salvaged commodities, distribution or service charges assessed to recipient agencies, insurance, or recoveries from loss of damage claims. Such funds may currently be used only for program purposes, including transportation, storage and handling of foods, salaries of food distribution employees, and other administrative expenses. The section requires distributing agencies to review the receipt and expenditure of funds accruing from these sources at least annually to determine that balances "are not in excess of program needs." Excess funds received from distribution charges must be either used to reduce the charges or be returned to the recipient agencies from which they were collected. Excess funds from all other sources shall be "(1) used to reduce distribution charges, (2) used to purchase additional foods, or (3) paid to the Department." FNS plans to expand this section to provide more precise guidelines, including specific examples of "other adminsitrative expenses" and a measure to enable distributing agencies to determine when funds are "excess." Further, the agency is considering a requirement that disposition of all such funds over a specific dollar limit be at the Department's discretion.

FNS will be particularly interested in comments on what expenses should be considered "administrative" and how funds should be measured to determine if they are "excess."

Improper Distribution or Loss of, or Damage to, Donated Foods

Section 250.6(m) contains provisions for obtaining restition for donated foods which are unaccounted for as the result of improper distribution, use, loss or damage. At the Department's opinion, restitution shall be obtained by (1) in-kind replacement, (2) in the case of section 6 foods, replacement with other similar foods, or (3) payment of the value of the foods as determined by USDA. The section requires distributing agencies to pursue claims arising in their favor immediately upon receipt of information regarding commodity loss, damage, or improper distribution. However, certain exemptions from claims actions are provided for in instances of minimal inventory shortages or losses.

FNS has determined that Section 250.6(m) currently provides inadequate and sometimes confusing guidelines to distributing agencies and intends to

make a substantial revision of the section. As a preliminary step, the agency is revising FNS Instruction 410–1, *Claims—Food Distribution Division*, in order to provide more specific guidance in this area, using as a model the recently issued FNS Instruction 128–4, *Audit Resolution—Special Nutrition Programs*, among the changes being proposed are: (1) clearer delegations of authority to indicate when distributing agencies, FNS Regional Offices, or FNS—Washington are responsible for making final claims determinations, with a Chart of Responsibilities (included as an Exhibit) to outline required actions and timeframes, (2) addition of a Glossary of Terms to include definitions of "in-kind replacement," "other similar foods," "value of donated foods," "out-of-condition food," "fraud," and other terms whose meaning in the regulations is sometimes ambiguous; (3) certain modifications of provisions concerning lost section 6 foods; and (4) reference to antifraud provisions of section 12(g) of the National School Lunch Act and the implementing provisions of Section 250.13(b) of the regulations. FNS will soon submit the proposed FNS Instruction 410–1, Rev. 1 to FNS Regional Offices and distributing agencies for comments, and will take their recommendations into consideration when preparing the final issuance. The proposed revision of Section 250.6(m) will incorporate the procedures to be provided in the revised instruction.

Audit Requirements

With the exception of §§ 250.6(t), 250.12(g), and 250.13(g)(3), which merely state the right of inspection and audit of pertinent records, reports, facilities or procedures by USDA representatives, the current regulations do not contain specific guidance on audits. The Department is considering consolidating these sections and including provisions for (1) accessibility of records to representatives of the United States General Accounting Office; (2) State agency responses to Federal audit findings; (3) State-sponsored audits to be conducted with appropriate frequency, depending on the volume or value of commodity assistance provided; (4) corrective action on program deficiencies; and (5) review of State-sponsored audit reports by the Department.

Provisions relative to State-sponsored audits would include an independent audit of the financial operations of the State distributing agency, subdistributing agency, and recipient agency. These audits would be conducted by State and local government audit staffs, State-licensed public accountants or by certified public accountants and audit firms under contract with the State or local agencies and would conform to "The Programs, Activities and Functions," issued by the Comptroller General of the United States. The audit would be used to determine whether: (1) financial operations are properly conducted; (2) the financial reports are faily presented; and (3) the agency has complied with applicable laws, regulations, and administrative requirements pertaining to financial management.

Comments concerning provisions for conducting State-sponsored audits, as discussed above, and how frequently these audits should be conducted would be particularly useful to FNS.

Dated: December 10, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-39056 Filed 12-15-80; 8:45 am]

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federal register

Tuesday
December 16, 1980

Part VIII

Department of Agriculture

Food and Nutrition Service

Food Distribution Program; Revision of Regulations

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 250

Food Distribution Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the regulations for the Food Distribution Program to (1) consolidate the 42 amendments made since the regulations were last published in 1966; and (2) include technical changes reflecting current legislative authority and program functions within USDA.

EFFECTIVE DATE: Effective December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–8386.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA Procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified not significant.

Introduction

The regulations governing the Food Distribution Program establish the responsibilities of the Food and Nutrition Service (FNS) and State agencies for the distribution and use of federally acquired foods. Current regulations provide for the distribution of donated foods to a variety of domestic outlets, including child nutrition programs, charitable institutions, nonprofit summer camps for children, nutrition programs for the elderly, low-income households and disaster organizations.

As required by Executive Order 12044, Part 250 was scheduled for review in the Department's response to the order published on November 1, 1978 (43 FR 50994), and it was determined that the regulations were in need of overall revision. This final action is a reprint of Part 250, incorporating technical and editorial changes as discussed below. FNS is preparing for public comment additional revisions to this part. Those revisions are described in the Prenotice; Review of Existing Regulations under E.O. 12044 which appears elsewhere in this issue.

Bob Greenstein, Administrator, Food and Nutrition Service, USDA, has determined that the technical and editorial nature of these changes warrant publication of this final action without a public comment period. Some changes have been implemented through other regulations and some are the result of legislative mandates which provide for no discretion on the part of the Secretary.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final action are impracticable and contrary to the public interest; and good cause is found for making this final action effective less than 30 days after publication of this document in the **Federal Register.**

Definitions

Sections 409 and 410(b) of the Disaster Relief Act of 1974 authorize the distribution and purchase of donated foods necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such areas. "Major disaster" and "emergency" have therefore been defined in Section 250.3 to assist State Distributing Agencies in identifying these types of situations.

As of October 1979, the administration of the Food Distribution Program for the Commonwealth of the Northern Marianas was no longer part of the administration of the program for the Trust Territory of the Pacific Islands. Thus, the definition of "State" in Section 250.3 has been expanded to include the Commonwealth of the Northern Marianas.

The definition of "needy persons" in Section 250.3(m) of the former regulations has been revised as discussed in the paragraph concerning meal services.

The definitions of "Nutrition Program for the Elderly" and "State Agency on Aging" have been expanded in accordance with Public Law 94–478, which added a new Title VI to the Older Americans Act of 1965, as amended. Title VI provides for nutrition services comparable to those provided under Title III for older Indians represented by tribal organizations.

The distribution of donated foods to households in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas will continue to be subject to the provisions of Section 250.6(f) as discussed in the paragraph on household distribution. Supplemental Security Income benefits are not available to households in these areas; therefore, the definition of "Supplemental Security Income" has been deleted.

Legislation

Section 250.1(b) of these regulations quotes applicable legislative authorities affecting acquisition or distribution of donated foods. Changes have been made in the quoted provisions of the following statutes to reflect legislative action taken in recent years: (1) Sections 6, 9, 13, 14, and 17 of the National School Lunch Act have been updated in accordance with Public Laws 94–105, 95–166, and 95–627; (2) Section 4(a) of the Agriculture and Consumer Protection Act of 1973 has been updated in accordance with Public Law 95–113; and (3) Section 707 of the Older Americans Act of 1965 has been deleted and replaced with Section 311 of that Act, in accordance with Public Law 95–478. In addition, Section 307 of the Agriculture Trade Development and Assistance Act of 1954 and Section 11 of the Disaster Relief Act of 1969 have been deleted, since those statutes have been repealed. Finally, Sections 409 and 410(b) of the Disaster Relief Act of 1974 have been added to indicate the Department's current responsibilities to distribute and purchase donated foods in major disasters or emergencies.

Household Distribution

Food Distribution Program regulations currently provide for the distribution of donated foods to low-income households which meet minimum income and resource criteria used to determine the need for food assistance.

Section 4(b) of the Food Stamp Act of 1977 prohibits the distribution of federally donated foods to households in jurisdictions where the Food Stamp Program is in operation, except that distribution may be made (1) on a temporary basis under programs authorized by law to meet disaster relief needs, or (2) for the purpose of the Commodity Supplemental Food Program. Distribution of donated foods, with or without the Food Stamp Program, shall also be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization.

Accordingly, Sections 250.4(a) and 250(f) have been revised. Section 250.4(a) eliminates the distribution of donated foods to households in areas where a Food Stamp Program is in operation except: (1) authorized Indian reservations; (2) during emergency situations caused by a national or other disaster as determined by the Secretary; and (3) for the purpose of the Commodity Supplemental Food Program.

The regulations for the latter program are published under Part 247 of this chapter. The distribution and use of donated foods with respect to tribal households shall be made in accordance with the provisions set forth in Part 283 of this chapter.

Section 250.6(f) requires that the plan of operation for distribution of donated foods to households on all or part of an Indian reservation meet the requirements of Section 283.5(a) of this chapter. Distribution of donated foods to households in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas will continue to be subject to the provisions of Section 250.6(f).

Sections 250.8(d) and 250.9(a) have been revised to require that State agencies distribute donated foods and certify needy households in accordance with the plan of operation.

Households in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas do not receive any type of assistance which would, by definition, place them in a public assistance household category. Thus, since there are only non-public assistance households in these areas, household categories (i.e., public assistance and non-public assistance) have been eliminated throughout Section 250.6(f).

Section 250.12 provides for payment of operating expense funds to distributing agencies to assist them in meeting operating expenses incurred in providing donated foods to needy households in the Trust Territory and the Northern Marianas. Operating expense funds will be provided for use in the distribution of donated foods to needy families on Indian reservations in accordance with the provisions of Section 283.9 of this chapter.

Donated Foods Used in Meal Services Approved for Food Stamp Program Participation

These regulations also include a change in the definition of "needy persons" in Section 250.3, which affects persons in charitable institutions who purchase meals with coupons issued in the Food Stamp Program. Many non-profit meal services approved for Food Stamp Program participation received commodities under this part as charitable institutions. The Food Stamp Act of 1964 prohibited use of federally donated foods in preparing meals purchased with food coupons. This prohibition was omitted from the Food Stamp Act of 1977 because the Older Americans Act of 1965, as amended, had already made it inapplicable to nutrition programs for the elderly participating under this part. Food Stamp Program regulations issued under Part 278 of this chapter (43 FR 43274–43279) reflect the omission. The definition of "needy persons" in Section 250.3(m) of the regulations is being amended to drop the exclusion of persons who use food coupons for meal purchases from programs receiving commodities under this part, so that approved meal services may now receive donated foods without regard to Food Stamp Program participation.

Use of Donated Foods in Demonstrations and Tests

These regulations delete a reference to another superseded provision concerning donated food use in the Food Stamp Program. Section 10(a) of the Food Stamp Act of 1964 required efforts to "encourage continued use * * * of surplus commodities * * * available through direct distribution" in administering the program, but that requirement was omitted from the Food Stamp Act of 1977.

Reflecting the earlier legislation, Section 250.4(g) of the former regulations, concerning workshops, demonstrations, and tests related to utilization of donated foods by recipient agencies, encouraged use of commodities in "recipient food informational and educational programs undertaken pursuant to Section 10(a) of the Food Stamp Act of 1964, as amended." The Department believes there is no compelling reason for encouraging such use in the Food Stamp Program since the legislative requirement has been lifted. As revised, Section 250.4(g) still permits use of commodities which are donated for specific purposes—e.g., schools, charitable institutions, food distribution to households on Indian reservations, nutrition programs for the elderly—in workshops, demonstrations, and tests related to such programs.

Elderly Nutrition Program

As indicated above, these regulations update the quoted provisions of the Older Americans Act of 1965, as amended by Public Law 94–478. That legislation incorporated the elderly nutrition program, formerly conducted under Title VII of the Act into a more comprehensive program administered under a revised Title III. Section 311(a)(4) of the legislation requires the Department to maintain through fiscal year 1981, an annually programmed level of assistance, in donated foods or cash payments in lieu thereof, of not less than 30 cents per meal served in the program. The level of assistance is subject to annual adjustment to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics, U.S. Department of Labor. All references to Title VII of the Act have been changed to Title III, and Section 250.4(b)(4) has been revised to reflect the current level of assistance to be provided in donated foods or cash payments for each meal served in the program. In addition, the legislation also added to the Act a new Title VI, which provides for Nutrition Services comparable to those provided under Title III for older Indians represented by tribal organizations. The regulations have been revised to provide for the same level of commodity assistance for cash payments to nutrition programs under Title VI as is provided under Title III.

Organization

The regulations have been restructured to provide for a more consistent flow of information. The following table has been compiled as an aid in relating the current regulations to the revised regulations.

Table of Redesignations

Old	New
250.10	250.13
250.11	250.14
250.13	250.10
250.14	250.11
250.15	250.12

7 CFR Chapter II is amended by revising Part 250 to read as follows:

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—FOOD DISTRIBUTION

PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

Sec.

250.1 General purpose and scope.
250.2 Administration.
250.3 Definitions.
250.4 Availability of donated foods.
250.5 Eligible distributing agencies.
250.6 Obligations of distributing agencies.
250.7 Disposition of damaged or out-of-condition foods.
250.8 Eligible recipient agencies.
250.9 Eligible recipients.
250.10 Special feeding programs.
250.11 (Reserved)
250.12 Operating expense funds for distributing agencies.
250.13 Miscellaneous provisions.
250.14 Where to obtain information.

Authority: Sec. 32, Pub. L. 74–320, 49 Stat. 744 (7 U.S.C. 612c); Pub. L. 75–165, 50 Stat. 323 (15 U.S.C. 713c); secs. 6, 9, 60 Stat. 231, 233, Pub. L. 79–396 (42 U.S.C. 1755, 1758); sec. 416, Pub. L. 81–439, 63 Stat. 1058 (7 U.S.C. 1431);

sec. 402, Pub. L. 91–665, 68 Stat. 843 (22 U.S.C. 1922); sec. 210, Pub. L. 84–540, 70 Stat. 202 (7 U.S.C. 1859); sec. 9, Pub. L. 85–931, 72 Stat. 1792 (7 U.S.C. 1431b); Pub. L. 86–756, 74 Stat. 899 (7 U.S.C. 1431nt); sec. 709, Pub. L. 89–321, 79 Stat. 1212 (7 U.S.C. 1446a–1); sec. 3, Pub. L. 90–302, 82 Stat. 117 (42 U.S.C. 1761); secs. 409, 410, Pub. L. 93–288, 88 Stat. 157 (42 U.S.C. 5179, 5180); sec. 2, Pub. L. 93–328, 88 Stat. 286 (42 U.S.C. 1762a); Sec. 16, Pub. L. 94–105, 89 Stat. 522 (42 U.S.C. 1766); sec. 1304(a), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 613cnt); sec. 311, Pub. L. 95–478, 92 Stat 1533 (42 U.S.C. 3030a); sec. 10, Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760); (5 U.S.C. 301).

§ 250.1 General purpose and scope.

(a) *Terms and Conditions.* This part prescribes the terms and conditions under which foods may be obtained by Federal, State, and private agencies for use in any State in schools, child care institutions, nonprofit summer camps for children, charitable institutions, correctional institutions for minors, nutrition programs for the elderly, and the assistance of needy persons.

(b) *Legislation.* The distribution of commodities is authorized for the stated purposes by the following legislation:

(1) Section 416 of the Agricultural Act of 1949, as amended (hereinafter referred to as "section 416"), which reads in part as follows:

In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest: * * * (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served. In the case of (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transportation, handling, and other charges accruing up to the time of their delivery to a Federal agency or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. * * *

(2) Section 210 of the Agricultural Act of 1956 (hereinafter referred to as "section 210"), which reads in part as follows:

Notwithstanding any other limitation as to the disposal of surplus commodities acquired through price-support operations, the Commodity Credit Corporation is authorized on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest, and upon application, to donate food commodities acquired through price-support operations * * * to State correctional institutions for minors, other than those in which food service is provided for inmates on a fee, contract or concession basis.

(3) Section 32 of Pub. L. 74–320, as amended (hereinafter referred to as "section 32"), which reads in part as follows:

There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936, an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to * * * (2) encourage the domestic consumption of such (agricultural) commodities or products by diverting them * * * from the normal channels of trade and commerce * * *

(4) Pub. L. 75–165, as amended, which supplemented section 32 and reads in part as follows:

In carrying out clause (2) of section 32, the funds appropriated by said section may be used for the purchase * * * of agricultural commodities and products thereof, and such commodities * * * may be donated for relief purposes and for use in nonprofit summer camps for children.

(5) Section 9 of the Act of September 6, 1958 which reads in part as follows:

Notwithstanding any other provision of law those areas under the jurisdiction or administration of the United States are authorized to receive from the Department of Agriculture for distribution on the same basis as domestic distribution in any State, Territory, or possession of the United States, without exchange of funds, such surplus commodities as may be available pursuant to clause (2) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), and section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431): * * *

(6) Section 6 of the National School Lunch Act, as amended (hereinafter referred to as "section 6"), which reads in part as follows:

(a) The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 3 thereof, less (1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this Act and under the Child Nutrition Act of 1966; (2) the amount apportioned by him pursuant to sections 4 and 5 of this Act and the amount appropriated pursuant to sections 11 and 13 of this Act and sections 4, 5, and 7 of the Child Nutrition Act of 1966; and (3) not to exceed 1 per centum of the funds provided by carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3 * * * shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities. Any school participating in the food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year * * * (e) For the fiscal year ending June 30, 1975, and subsequent school years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and the amount shall be adjusted on an annual basis each school year after June 30, 1975, to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meat, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products). Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program.

(7) Section 9(c) of the National School Lunch Act, as amended, which reads in part as follows:

(c) School lunch programs under this Act shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 744), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under this Act as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949, as amended, and under section 709 of the Food and Agriculture Act of 1965, as amended, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. * * *

(8) Section 402 of the Mutual Security Act of 1954, as amended, which reads in part as follows:

* * * surplus food commodities or products thereof made available for transfer under this Act (or any other Act) as a grant or as a sale for foreign currencies may also be made available to the maximum extent practicable to eligible domestic recipients pursuant to section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), or to needy persons within the United States pursuant to clause (2) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c).

(9) Pub. L. 86–756, as amended, which reads as follows:

Schools receiving surplus foods pursuant to clause (3) of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c) are authorized to use such foods in training students in home economics, including college students if the same facilities and instructors are used for training both high school and college students in home economics courses.

(10) Section 409 of the Disaster Relief Act of 1874, which reads as follows:

(a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act * * * and to make surplus commodities available pursuant to the provisions of this Act.

(b) The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factor s as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act * * * except as they relate to the availability of food stamps in an area affected by a major disaster.

(11) Section 410(b) of the Disaster Relief Act of 1974, which reads as follows:

The Secretary of Agriculture shall utilize funds appropriated under section 32 of the Act of August 24, 1935 (U.S.C. 612c), to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

(12) Section 709 of the Food and Agriculture Act of 1965, as amended (hereinafter referred to as section 709), which reads as follows:

The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes.

(13) Section 13(h) of the National School Lunch Act, as amended, which reads as follows:

(h) Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1). Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

(14) Section 8 of the Child Nutrition Act of 1966 which reads in part as follows:

* * * Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this Act.

(15) Section 311 of the Older Americans Act of 1965, as amended, which reads in part as follows:

(a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with provisions of this title.

(2) The Commodity Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

(4) In donating commodities under this subsection, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than * * * 25 cents per meal during fiscal year 1977 and fiscal year 1978, and 30 cents per meal during the three succeeding fiscal years. The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

(b)(1) During each of the fiscal years ending before October 1, 1981, the Secretary of Agriculture shall purchase high protein foods, meat, and meat alternates on the open market, at prices not in excess of market prices, out of funds appropriated under this section, as determined under paragraph (3), for distribution to recipients of grants or contracts to be used for providing nutrition services in accordance with the provisions of this title. High protein foods, meat, and meat alternates purchased by the Secretary of Agriculture under this subsection shall be grown and produced in the United States.

(2) High protein foods, meat, and meat alternates donated under this subsection shall not be considered donated commodities for purposes of meeting the requirement of subsection (a)(4) with respect to the annually programmed level of assistance under subsection (a).

(3) There are authorized to be appropriated such sums as may be necessary in order to carry out the program established under paragraph (1).

(c)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

(16) Section 4(a) of the Agriculture and Consumer Protection Act of 1973, as amended, (hereinafter referred to as "section 4(a)"), which reads as follows:

Notwithstanding any other provision of law, the Secretary may, during fiscal years 1978, 1979, 1980, and 1981 purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions, supplemental feeding programs wherever located, diaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977. In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

(17) Section 14 of the National School Lunch Act, as amended (hereinafter referred to as "section 14"), which reads as follows:

(a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 1982 shall—(1) use funds available to carry out the provisions of section 32 of the act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section, (which may include domestic seafood commodities and their products) for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966, and Title III of the Older Americans Act of 1965; and (2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(b) Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

(c) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 311(a)(4) of the Older Americans Act of 1965, as amended, (42 U.S.C. 3045f(a)(4)) or for cash payments in lieu of such donations under section 311(c)(1) of such Act (42 U.S.C. 3045f(d)(1)). There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

(d) In providing assistance under this Act and the Child Nutrition Act of 1966 for school lunch and breakfast programs, the Secretary shall establish procedures which will—(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States; (2) solicit the views of States with respect to the acceptability of commodities; (3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice; (4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; (5) make available technical assistance on the use of commodities available under the Act and the Child Nutrition Act of 1966 * * *.

(e) Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.

(18) Section 17(h) of the National School Lunch Act, as amended, which reads as follows:

(h) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year under section 6(e) of this Act. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

(19) Section 12(g) of the National School Lunch Act, as amended, which reads as follows:

(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

§ 250.2 Administration.

FNS. The Food and Nutrition Service (referred to in this part as FNS) of the U.S. Department of Agriculture shall have responsibility for the program of distribution of food commodities under this part.

§ 250.3 Definitions.

"Charitable institutions" means (1) nonpenal, noneducational public (Federal, State or local) institutions, (2) nonprofit, tax-exempt, private hospitals, or (3) other nonprofit, noneducational, tax-exempt, private institutions organized for charitable or public welfare purposes, including any institution defined as "school," "service institutions," or "nonresidential child care institution" which is not a commodity-only school or does not participate in any Child Nutrition Program, (National School Lunch Program, Special Milk Program, School Breakfast Program, Summer Food

Service Program for Children, Child Care Food Program (Parts 210, 215, 220, 225, and 226, respectively, of this chapter)). For purposes of this paragraph, tax-exempt shall mean exempt from income tax under the Internal Revenue Code, as amended, and a charitable institution shall be considered "noneducational" even though educational courses are given, where such courses are an incident to the primary purpose of the charitable institution.

"Child care center" means any licensed, nonschool, public or private nonprofit organization providing day care services where children are not maintained in permanent residence, including but not limited to, day care centers, settlement houses, recreation centers, Head Start centers, and organizations providing care services for handicapped children.

"Commodities" means foods donated, or available for donation, by the Department under any of the legislation referred to in this part.

"Commodity-only school" means a school which does not participate in the National School Lunch Program but which operates a nonprofit lunch program under agreement with the State education agency or FNSRO in accordance with Part 210 of this chapter.

"Department" means the United States Department of Agriculture or the Commodity Credit Corporation, whichever is donor under the pertinent legislation.

"Disaster organizations" means organizations authorized by appropriate Federal or State officials to assist disaster victims.

"Disaster victims" means persons who, because of Acts of God or manmade disasters, are in need of food assistance, whether or not they are victims of a major disaster or an emergency as defined in this section.

"Distributing agencies" means State, Federal or private agencies which enter into agreements with the Department for the distribution of donated foods to eligible recipient agencies and recipients. A distrubuting agency may also be a recipient agency.

"Donated foods" means foods donated, or available for donation, by the Department under any of the legislation referred to in this part.

"Emergency" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, health, and safety or to avert or lessen the threat of a disaster.

"Family and group day care home" means a licensed organized day care program for children in a private home under the auspices of a public or nonprofit private sponsoring organization.

"Fiscal year" means the period of 12 months beginning October 1 of any calendar year and ending September 30 of the following calendar year.

"FNSRO" means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Service of the Department of Agriculture.

"Household" means a group of related or non-related individuals, exclusive of boarders, who are not residents of an institution, but who are living as one economic unit, sharing common cooking facilities, and for whom food is customarily purchased in common. It also means a single individual, living alone, who has cooking facilities and prepares food for home consumption.

"Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Disaster Relief Act of 1974, (42 U.S.C. 5121), above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

"Needy persons" means (1) persons serviced by charitable institutions, who, because of their economic status, are in need of food assistance, (2) all the members of a household who are certified as in need of food assistance, and (3) persons who, because of Acts of God or manmade disasters, are in need of food assistance, whether or not they are victims of a major disaster or an emergency as defined in this section.

"Nonprofit lunch program" means a food service maintained by a school for the benefit of children, all of the income from which is used solely for the operation or improvement of the food service.

"Nonprofit summer camps for children" means nonprofit camps which do not participate in the Summer Food Service Program for Children authorized under Section 13 of the National School Lunch Act, as amended, and in which, during the months of May through September, nonprofit feeding services are conducted for children of high school grade and under.

"Nonresidential child care institution" means a child care center, a family and group day care home, and a sponsoring organization.

"Nutrition program for the elderly" means a project conducted by a recipient of a grant or contract under Title III or Title VI of the Older Americans Act of 1965, as amended, to assist in meeting the nutritional and social needs of persons aged sixty or older.

"Recipients" means needy persons and disaster victims receiving commodities for their own use.

"Recipient agencies" means disaster organizations, charitable institutions, nonprofit summer camps for children, school food authorities, schools, service institutions, welfare agencies, nutrition programs for the elderly, and nonresidential child care institutions, receiving foods for their own use or for distribution to eligible recipients.

"School" means (1) an educational unit of high school grade or under operating under public or nonprofit private ownership in a single building or complex of buildings. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or higher grade, or when they are recognized as a part of the educational system in the State, regardless of whether such preprimary grade classes are conducted in a school having classes of primary or higher grade; (2) with the exception of residential summer camps which are eligible to participate in the Summer Food Service Program for Children under Part 225 of this chapter and private foster homes, any distinct part of a public or nonprofit private institution or any public or nonprofit private child care institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institution" includes, but is not limited to: homes for the mentally retarded, the emotionally

disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; half-way houses; orphanages; temporary shelters for abused children and for runaway children; long-term care hospitals for chronically ill children; and juvenile detention centers; and (3) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico.

"School food authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a nonprofit lunch program therein.

"School year" means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

"Secretary" means the Secretary of Agriculture.

"Service institutions" means nonresidential public or private nonprofit institutions and public or private nonprofit camps that develop special summer or school vacation programs providing food service similar to that available to children during the school year under the National School Lunch and School Breakfast Programs.

"Sponsoring organization" means any public or private nonprofit organization which is an independent entity responsible for the management of the food program in one or more child care centers or family and group day care homes.

"State" and "United States" means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas.

"State Agency on Aging" means (1) the State agency that has been designated by the Governor and approved by the United States Department of Health and Human Services (DHHS) to administer nutrition programs for the elderly under Title III of the Older Americans Act of 1965, as amended or (2) the Indian Tribal Organization which has been approved by DHHS to administer nutrition programs for the elderly under Title VI of such Act.

"State correctional institutions for minors" means institutions, such as reform schools or training schools, operated by a State, which are devoted solely to the rehabilitation and education of minors and are classified under State law as nonpenal in character, and in which food service is not provided for inmates on a fee, contract, or concession basis.

"State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State Superintendent of Public Instruction, Commissioner of Education, or similar officer) or (2) a board of education controlling the State Deparment of Education.

"Students in home economics" means students in regular classes wherein they are taught food preparation, cooking, and serving.

"Subdistributing agencies" means agencies performing one or more distribution functions for distributing agencies other than, or in addition to, functions normally performed by common carriers or warehousemen. A subdistributing agency also may be a recipient agency.

"Welfare agencies" means public (Federal, State or local) or private agencies offering assistance on a charitable or welfare basis to needy persons who are not residents of an institution, and to Tribal Councils designated by the Bureau of Indian Affairs.

§ 250.4 Availability of donated foods.

(a) *Distribution and use of donated foods.* Commodities shall be available only for distribution and use in accordance with the provisions of this part and, with respect to distribution to households on all or part of an Indian reservation, of Part 283 of this chapter. Donated foods not so distributed or used (for any reason) shall not be sold, exchanged or otherwise disposed of without the approval of the Department. However, donated foods may be transferred between recipient agencies with the authorization of the distributing agency if determined to be in the best interest of the distribution program. In areas where a Food Stamp Program is in effect, there shall be no distribution of donated foods to households under this part except: (1) to authorized Indian reservations; (2) during emergency situations caused by a national or other disaster as determined by the Secretary; and (3) for the purpose of the Commodity Supplemental Food Program.

(b) *Quantities.* (1) The quantity of donated foods to be made available for donation under this part shall be determined in accordance with the pertinent legislation and the program obligations of the Department, and shall be such as can be effectively distributed in furtherance of the objectives of the pertinent legislation.

(2) For each school year, the national average value of donated foods to be made available to States for distribution to schools, or cash payments in lieu thereof, shall not be less than 10 cents for each lunch, adjusted on an annual basis as provided in paragraph (b)(5) of this section. Not less than 75 per centum of the food distribution assistance for schools shall be in the form of donated foods.

(3) For each school year, the national average value of donated foods to be made available to States for distribution to nonresidential child care institutions, or cash payments in lieu thereof, shall not be less than 10 cents for each lunch and supper, adjusted on an annual basis as provided in paragraph (b)(5) of this section.

(4) For the fiscal year ending September 30, 1981, the quantity of donated foods to be made available to any State for distribution to nutrition programs for the elderly shall be valued at not less than 30 cents for each meal which the State Agency on Aging, in accordance with regulations and guidelines authorized by the Commissioner on Aging, United States Department of Health and Human Services, reportrs as having been served or, where necessary, estimates will be served within the State during the year, adjusted on an annual basis as provided in paragraph (b)(5) of this section: *Provided, however,* That this quantity shall be reduced to the extent that a State elects to receive cash in lieu of donated foods in accordance with § 250.13(f) of this part.

(5) (i) The value of donated foods to be distributed for lunches in schools and for lunches and suppers in nonresidential child care institutions, or, where applicable, the amount of cash payments to be made in lieu of donated foods for such meals, shall be adjusted on an annual basis to reflect changes in the Price Index for Food Used in Schools and Institutions prescribed by section 6(e)(2) of the National School Lunch Act, as amended. (ii) The value of donated foods to be distributed to nutrition programs for the elderly, or, where applicable, the amount of cash payments to be made in lieu of donated foods, shall be adjusted on an annual basis to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. (iii) The adjustments required by (i) and (ii) shall be computed to the nearest one-fourth cent and shall be

made effective as of the beginning of each school year for schools and nonresidential child care institutions and as of the beginning of each fiscal year for nutrition programs for the elderly.

(6) The Department may, at its discretion, and consistent with pertinent legislation, restrict distribution of donated foods to one or more classes of recipient agencies or recipients.

(c) *Minimum donations.* Commodities shall be donated only in such quantities as will protect the lowest carload freight rate, except as deemed in the best interest of the program as determined by the Department.

(d) *Allocations.* As commodities become available for donation, the Food Distribution Division, FNS, shall notify distributing agencies regarding the commodities, the class or classes of recipient agencies or recipients eligible to receive them, and any special terms and conditions of donation and distribution which attach to a particular commodity in addition to the general terms and conditions set forth herein. Every attempt shall be made to deliver commodities in accordance with requested schedules. However, the Department shall not be responsible for delay in delivery or for nondelivery of commodities due to any cause.

(e) *Processing and other costs.* The Department shall pay such processing, reprocessing, transporting, handling and other charges accruing up to the time of transfer of title to distributing agencies as is deemed in the interest of the Department.

(f) *Transfer of title.* Title to donated foods shall pass to distributing agencies upon their acceptance of donated foods at time and place of delivery, limited, however, by the obligation of the distributing agency to use such donated foods for the purposes and upon the terms and conditions set forth in this part.

(g) *Availability for demonstrations and tests.* Notwithstanding any other provision of this part, a quantity of any commodity donated for use by any recipient agency or recipient may be transferred by the distributing agency or by the recipient agency to bona fide experimental or testing agencies, or for use in workshops, for demonstrations or tests relating to the utilization of such commodity by the recipient agency or recipient. No such transfer by any recipient agency shall be made without the approval of the appropriate distributing agency.

(h) *Refusal of donated foods by school food authorities.* Any school food authority participating in food service programs under the National School Lunch Act, as amended, may refuse, at the time they are offered, donated foods and other foods offered for delivery for lunches in any school year if such foods cannot be used effectively. The school food authority may receive, in lieu of the refused donated foods, other donated foods to the extent other donated foods are available to the State during the school year: *Provided, however,* That not more than 20 percent of the value of the donated foods offered to a school food authority for lunches during the school year shall be subject to replacement with other available donated foods unless replacement based on the refusals of more than 20 percent of such value is feasible and practical.

§ 250.5 Eligible distributing agencies.

(a) *State and Federal agencies.* Such State and Federal agencies as are designated by the Governor of the State, by the State legislature, and approved by the Secretary shall be eligible to become distributing agencies.

(b) *Private agencies.* Where State distributing agencies are not permitted by law to make distribution to private recipient agencies, or to any class of private recipient agency, private agencies which agree to make distribution of donated foods on a State-wide basis and which apply directly to the Food Distribution Division, FNS, and are approved by the Secretary shall be eligible to become distributing agencies.

(c) *Agreements with Department.* Prior to the inauguration of a distribution program, eligible agencies shall enter into written agreements with the Department which shall incorporate by reference or otherwise the terms and conditions set forth in this part. When requested by the Department an eligible agency shall present evidence of its authority to enter into such agreements.

§ 250.6 Obligations of distributing agencies.

(a) *Determination of eligibility.* Distributing agencies shall determine that recipient agencies or recipients to whom they distribute donated foods are eligible under this part, and shall impose upon public welfare agencies the responsibility for determining that recipients to whom welfare agencies distribute commodities are eligible: *Provided, however,* That the State educational agency or FNSRO shall determine the eligibility under this part of schools and of service institutions participating in the Summer Food Service Program for Children under Part 225 of this chapter.

(b) *Agreements.* Distributing agencies shall enter into agreements with subdistributing agencies, recipient agencies, warehousemen, carriers, or other persons to whom donated foods are delivered under their distribution program. Agreements with subdistributing agencies and recipient agencies shall be in writing, except in those instances where subdistributing agencies are acting as agents for the distributing agencies. All agreements shall contain such terms and conditions as the distributing agency deems necessary to insure that (1) the distribution and use of donated foods is in accordance with this part, (2) subdistributing agencies, recipient agencies, warehousemen, carriers, or other persons to whom donated foods are delivered by the distributing agency are responsible to the distributing agency for any improper distribution or use of donated foods, and for any loss of, or damage to, donated foods caused by their fault or negligence, (3) subdistributing agencies and recipient agencies have and preserve a right to assert claims against other persons to whom donated foods are delivered for care, handling or distribution, and (4) subdistributing agencies and recipient agencies will take action to obtain restitution in connection with claims arising in their favor for improper distribution, use or loss of, or damage to, donated foods. To the extent that bills of lading and warehouse receipts satisfy the above-stated criteria, the distributing agency may consider such documents as appropriate agreements.

(c) *Use of subdistributing agencies.* If distributing agencies use subdistributing agencies to distribute donated foods, the distributing agencies' responsibilities to the Department for overall management and control of the distribution program shall not be delegated to such subdistributing agencies.

(d) *Distribution to charitable institutions.* Distributing agencies shall submit for prior approval by FNS a description of the method or methods by which the distributing agencies will determine the number of needy persons in charitable institutions. The methods so approved shall include, but are not limited to, those which identify the persons, or the number thereof, who do not pay the full charge assessed for the services provided to them or who are unable to pay the full cost of providing such services.

(e) *Distribution to schools.* Prior to making distribution to schools, distributing agencies shall notify each school food authority of its right to refuse delivery of not more than 20 percent of the total value of donated foods offered to it by such agencies for use in nonprofit lunch programs in any

school year and to receive other donated foods, if available, in lieu of those refused, in accordance with § 250.4(h). Notification of commodity refusal rights shall be provided by means of a letter or by an addendum to the agreement required by paragraph (b) of this section to each school food authority prior to the beginning of each school year.

(f) *Household distribution.* Distributing agencies, prior to making distribution to welfare agencies or households, shall submit a plan of operation for approval by the appropriate FNS Regional Office. The plan of operation for food distribution to households on all or part of an Indian reservation shall meet the requirements of § 283.5(a) of this chapter. Food distribution to households in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas shall continue to be subject to the provisions of this paragraph. Such plan shall incorporate the procedures and methods to be used in certifying households as in need of food assistance; in making distribution to households; and in providing a fair hearing to households whose claims for food assistance under the plan are denied or are not acted upon with reasonable promptness, or who are aggrieved by an agency's interpretation of any provision of the plan. Each State distributing agency shall submit its plan of operation and any amendment thereto to the High Commissioner of the Trust Territory or the Governor of the Commonwealth of the Northern Marianas, or their delegate, as appropriate, for comment on its relationship to other plans and programs. The Governor, and the High Commissioner or their delegate, shall be allowed a period of 45 days, prior to submission of the plan or amendment to FNS by the State distributing agency, to make such comments and attach them to the plan or amendment. No amendment to the plan of operation of a distributing agency shall be made without prior approval of FNS, and FNS may require amendment of any plan as a condition of continuing approval. Distributing agencies shall require welfare agencies making distribution to households to conduct distribution programs in accordance with all provisions of the State plan of operation. As a minimum, the plan shall include the following:

(1) The name of the public welfare agency or agencies which will be responsible for certification of households.

(2) The manner in which donated foods will be distributed, including, but not limited to, the identity of the agency that will distribute donated foods, the storage and distribution facilities to be used and the method of financing.

(3) *The specific criteria to be used in certifying households as in need of food assistance.* The income and resource standards established by each distributing agency for use by welfare agencies in determining the eligibility of applicant households, after October 1979, shall continue to be those standards used as of that date which were incorporated in a plan of operation approved by FNS, unless an amendment to such standard is required or approved by FNS.

(4) The method or methods that will be used to verify the information upon which the certification of eligibility is based, including the kinds of documentary evidence that applicants are required to furnish to obtain certification.

(5) Provisions for periodically reviewing the certification of households to discover any change in their status which would necessitate a change in the determination of eligibility. The eligibility of households shall be reviewed at least every three months, except that such reviews may be made at longer periods, not to exceed 12 months, provided that such longer periods are based upon a determination by the certifying agency that the income and resources available to such households will probably remain essentially unchanged during such period.

(6) Provisions for identifying each person who has been designated to receive donated foods for a household.

(7) Assurance that the distribution of donated foods shall not be used as a means to further the political interest of any individual or party, and that there shall be no discrimination in the distribution of donated foods because of race, color, or national origin.

(8) Assurance that (i) citizenship or durational residence requirements shall not be imposed as a condition of eligibility and (ii) recipients shall not be required to make any payments in money, materials or services, for or in connection with the receipt of donated foods, and that they shall not be solicited in connection with the receipt of donated foods for voluntary cash contributions for any purpose.

(9) The manner in which the distributing agency plans to supervise the program.

(10) Definitions of any terms used which cannot be determined by reference to Webster's New International Dictionary (second edition).

(g) *Quantities requested.* Donated foods shall be requested and distributed only in quantities which can be consumed without waste in providing food assistance for persons eligible under this part. Distributing agencies shall impose similar restrictions on recipient agencies.

(h) *Distribution.* Donated foods shall be distributed only to recipient agencies and recipients eligible to receive them under this part (see §§ 250.8 and 250.9). Distributing agencies shall require that welfare agencies and disaster organizations distribute donated foods only to recipients eligible to receive them under this part. Distribution of donated foods to charitable institutions shall be made based on the number of needy persons served by them, as determined by the method of methods approved by FNS in accordance with paragraph (d) of this section. Distribution of donated foods to schools, service institutions, and nonresidential child care institutions shall be made on the basis of the average daily number of meals to be served which meet the meal type requirements prescribed in the regulations for the National School Lunch Program under Part 210 of this chapter, the School Breakfast Program under Part 220 of this chapter, the Summer Food Service Program for Children under Part 225 of this chapter, and the Child Care Food Program under Part 226 of this chapter, respectively, as evidenced by information provided by the administering State agency or FNSRO by September of each year for schools and nonresidential child care institutions and by June of each year for service institutions, and supplemented subsequently as necessary. Distribution of section 6 commodities shall be limited to those schools, service institutions, and nonresidential child care institutions which participate in such child nutrition programs under this chapter.

(i) *Redonations.* Whenever a distributing agency has any donated food on hand which it cannot efficiently utilize, it shall immediately request the appropriate FNSRO for instructions as to the disposition of such donated foods. Distributing agencies requesting authority to make redonation of any donated foods to the Department shall, upon the Department's request, have such donated foods federally-inspected at the distributing agences' expense. Any donated foods which the Department determines are acceptable for redonation shall be moved at the distributing agency's expense to the closest point, within the Food Distribution Division area in which the

State is located, where it can be utilized or to a closer point outside the area, if such a transfer is mutually agreed to by the Department and the distributing agency. In those instances in which the distributing agency satisfactorily demonstrates to the Department that the need for any redonation resulted from no fault or negligence on its part, the Department shall assume transportation costs as it determines to be proper. Whenever a redonation is made at the request of the Department, the Department shall pay all transportation and handling costs in connection with such redonation and shall pay to the distributing agency all storage and handling costs accrued on the donated foods at the time of donation, as determined by the Department.

(j) *Distribution charges.* Recipient agencies may be required to pay part or all of the within-State costs of distribution through a system of charges assessed by distributing or subdistributing agencies. Any system of assessment operated by the distributing agency shall have the prior approval of and be subject to review by the FNSRO. Any such system operated by subdistributing agencies shall have the prior approval of the distributing agency and be subject to review by the distributing agency and the FNSRO. The charges assessed shall be reasonable in relation to the services provided and the funds collected shall be used solely in accordance with the provisions of paragraph (k) of this section. Under no circumstances shall recipients be required to make any payments in money, materials, or services for or in connection with the receipt of donated foods, nor shall they be solicited in connection with the receipt of donated foods for voluntary contributions for any purpose.

(k) *Use of funds accruing in operation of the program.* Funds accruing from the sale of containers, salvage of donated foods, distribution charges, insurance, or recoveries from loss or damage claims (which are authorized under paragraph (m) of this section to be expended for program purposes) shall be used only for the payment of expenses of the food distributing program, including transportation, storage and handling of donated foods, salaries of persons directly connected with the program, and other administrative expenses. The receipt and expenditure of funds so accrued shall be reviewed by distributing agencies periodically, but at least once each fiscal year, to determine that fund balances are not in excess of program needs. If excess funds accumulate by reason of collection of distribution charges, such excess funds shall be used to reduce such charges or shall be returned to contributors. If excess funds accrue from the sale of containers, salvage of donated foods, insurance, or recoveries from loss or damage of claims, such funds shall be (1) used to reduce distribution charges, (2) used to purchase additional foods, or (3) paid to the Department. The distributing agency shall impose upon subdistributing agencies and recipient agencies similar provisions for the use of such funds accruing in the operation of their programs.

(l) *Normal food expenditures.* Donated foods shall not be distributed to any recipient agencies or recipients whose normal food expenditures are reduced because of the receipt of donated foods, except that this provision shall not apply to the distribution of section 6 donated foods.

(m) *Improper distribution or loss of or damage to donated foods.* If a distributing agency improperly distributes or uses any donated foods, or causes loss of or damage to a donated food through its failure to provide proper storage, care, or handling, the distributing agency shall, at the Department's option, (1) replace the donated food in its distribution program in kind, or, in the case of section 6 donated foods, where replacement in kind may not be practicable, with other similar foods, or (2) pay to the Department the value of the donated food as determined by the Department. Upon the happening of any event creating a claim in favor of a distributing agency against a subdistributing agency, recipient agency, warehouseman, carrier, or other person, for the improper distribution, use, or loss of, or damage to, a donated food, the distributing agency shall take action to obtain recovery. All amounts collected by such action shall, at the Department's option, be used in accordance with the provisions of paragraphs (m)(1) or (2) of this section, or, except for amounts collected on claims involving section 6 donated foods, shall be expended for program purposes in accordance with the provisons of paragraph (k) of this section. Determinations by a distributing agency that a claim has or has not arisen in favor of the distributing agency against a subdistributing agency, recipient agency, warehouseman, carrier, or other person, shall, at the option of the Department, be approved by the Department prior to the distributing agency's taking action thereon. Where prior approval has not been given by the Department, a distributing agency's claim determinations shall be subject to review by the Department. In the case of an inventory shortage, when the loss of any one commodity does not exceed 1 percent of the total quantity of the donated food distributed or utilized from any single storage facility during the Federal fiscal year in which the loss occurred, or during the period for which an audit was conducted by representatives of the Department, or, if approved by FNS, during the period for which an audit was conducted by the distributing agency, if the distributing agency finds that (i) the cause of the shortage cannot be established, (ii) the lost donated foods were held in non-commercial storage or other facilities owned or operated by the distributing agency, a subdistributing agency, or a recipient agency, and (iii) there is no indication that the loss was the result of negligence or continued inefficiency in operations, the distributing agency need not take any further claims action, but the factual basis for not taking further claims action shall be subject to review by the Department. Furthermore, distributing agencies shall not be required to file or pursue a claim for a loss which does not exceed an amount established by State law, regulations, or procedure as a minimum amount for which a claim will be made for State losses generally, but no such claim shall be disregarded where there is evidence of violation of Federal or State statutes. Distributing agencies which fail to pursue claims arising in their favor, or fail to provide for the right to assert such claims, or fail to require their subdistributing agencies and recipient agencies to provide for such rights shall be responsible to the Department for replacing the donated foods or paying the value thereof in accordance with the provisions of paragraphs (m)(1) or (2) of this section. Distributing agencies which pursue claims arising in their favor, but fail to obtain full restitution shall not be liable to the Department for any deficiency unless the Department determines that the distributing agency fraudulently or negligently failed to take reasonable action to obtain restitution. The Department may, at its option, require assignment to it of any claim arising from the distribution of donated foods.

(n) *Processing and labeling of commodities.* (1) Distributing agencies, subdistributing agencies, or recipient agencies may employ commercial or institutional facilities to process donated foods by converting them into different end products or by repackaging them. Distributing agencies or subdistributing agencies may contract

for the processing of donated foods and pay the processing cost or may contract for the processing of donated foods on behalf of one or more recipient agencies, each of which either pays the processor directly or pays the distributing agency for the processed end product it receives. Where the recipient agency pays the processor, the agreement of the recipient agency may be obtained by making that agency a party to the processing contract or separate contracts may be entered into between the recipient agency and the distributing or subdistributing agency. Distributing or subdistributing agencies shall require recipient agencies which employ commercial or institutional facilities to process donated foods to enter into written contracts with such facilities.

(2) Contracts with processing facilities shall be in writing. The distributing, subdistributing or recipient agency (contracting agency) should have an attorney prepare or review the contracts which it intends to sign to insure that such contracts conform to the requirements of local law. These processing contracts shall include the cost to the contracting agency and provide, as a minimum, that the processing facility shall (i) describe each end product to be produced and the quantity of each ingredient which is needed to yield a specific number of each end product, except that distributing, subdistributing, or recipient agencies may permit the processor to specify the total quantity of any flavorings or seasonings which may be used without identifying the ingredients which are, or may be components of, seasonings or flavorings, (ii) fully account for the donated foods delivered into its possession by production of any appropriate number of units of end products or packages, (iii) return all donated foods not so accounted for or pay the value of any such donated foods which cannot be returned, (iv) use or dispose of the containers in which the donated foods are received in accordance with the instructions of the distributing, subdistributing, or recipient agency, (v) apply as a credit against contract cost any funds received from the sale of containers of donated foods and obliterate or remove all restrictive markings if the containers are sold for commercial reuse, (vi) apply as a credit against contract costs the market value or the price received from the sale of any byproducts derived from the processing of donated foods, including substituted foods which are used by the processor, and (vii) maintain records and submit reports to the distributing, subdistributing, or recipient agency pertaining to the performance of the contract.

(3) The processing contract may provide that the processor may substitute for the donated foods a like quantity of the same foods of equal or better quality whenever depleted inventories of donated foods would otherwise hold up production. The contract shall specify the donated foods which may be substituted. Only butter, flour, rice, rolled oats, rolled wheat, nonfat dry milk, shortening, cornmeal, dried peas, lentils, dried beans, cheese, orange juice, peanut butter, raisins, and such other foods as FNS specifically approves may be substituted.

(4) Distributing agencies shall review and approve processing contracts entered into by subdistributing agencies and recipient agencies prior to the delivery of donated foods for processing under such contracts. The distributing agency which enters into or approves a processing contract shall provide a copy to each of the parties to the contract, forward a copy to the appropriate FNS Regional Office, and retain a copy for its files. Distributing agencies shall review and analyze reports submitted by processors to insure that performance under such contracts is in accordance with the provisions set forth in this section.

(5) When donated meat or poultry products are processed, all of the processing shall be performed in a plant or plants under continuous Federal meat or poultry inspection, or continuous State meat or poultry inspection in States certified to have programs at least equal to the Federal inspection program.

(6) Distributing agencies may, at their discretion, require subdistributing agencies, recipient agencies, and commercial or institutional facilities which process or repackage donated foods to label the containers of processed or repackaged donated foods in any manner and with whatever legend the distributing agency deems appropriate to comply with the agreement it has entered into with the Department under this part. Any labeling requirement imposed by a distributing agency must be specified in written contracts with processors which distributing agencies are required to review and approve.

(7) If the distributing agency which enters into or approves a contract for the processing of donated foods for use in a child nutrition program does not also administer such programs, it shall (i) collaborate with the State agency which administers the child nutrition programs and have that agency provide technical assistance to determine whether end products to be provided under the terms of the processing contracts meet required nutritional standards for reimbursement under the regulations governing the child nutrition programs (7 CFR Parts 210, 220, 225 and 226), (ii) furnish that agency with reports, as requested, on the number of approved processing contracts, the donated foods utilized, and the identity of the processing companies, and (iii) furnish that agency with such performance reports as are needed by that agency to assist it in evaluating use of end products by the recipient agencies.

(o) *Containers.* When containers in which donated foods are received are disposed of by sale, the proceeds of such sale shall be used solely in accordance with the provisions of paragraph (k) of this section, and subdistributing agencies and recipient agencies shall be required to use proceeds from the sale of containers solely for program purposes.

(p) *Personnel.* Adequate personnel, including supervisory personnel, shall be provided to review distribution programs and to effect distribution in accordance with the requirements of this part.

(q) *Facilities.* Facilities for the handling, storage, and distribution of donated foods shall be such as to properly safeguard against theft, spoilage, and other loss. Subdistributing agencies and recipient agencies shall be required to provide similar facilities.

(r) *Records.* Accurate and complete records shall be maintained with respect to the receipt, disposal and inventory of donated foods, including determinations with respect to liability for any improper distribution or use of, or loss of, or damage to, such foods and the results obtained from the pursuit of claims arising in favor of the distributing agency. Accurate and complete records shall also be maintained with respect to the receipt and disbursement of funds arising from operation of the distribution program. Distributing agencies shall require all subdistributing and recipient agencies to maintain accurate and complete records concerning the receipt, disposal and inventory of donated foods and any funds which may accrue from the operation of the distribution program. Distributing agencies shall maintain accurate and complete records with respect to amounts and value of donated foods refused by school fund authorities in accordance with § 250.4(h) and shall require that school fund authorities also maintain such records of refusals. Any person who contracts with a distributing agency, subdistributing agency or recipient agency to repackage,

process or prepare any donated foods shall be required to keep records, similar to those required of distributing, subdistributing and recipient agencies under this paragraph, with respect to the receipt, disposal and inventory of such foods. In addition, such person shall be required to keep formulae, receipts, loadout sheets, bills of lading, and other processing and shipping records to substantiate the use made of such foods and their subsequent redelivery (in whatever form) to any such agency. All recipient agencies shall be required to keep accurate and complete records showing the data and method used to determine the number of eligibile persons served by that agency. All records required by this section shall be retained for a period of 3 years from the close of the Federal fiscal year to which they pertain.

(s) *Reports.* Distributing agencies shall submit monthly reports to the Food and Nutrition Service Regional Office, FNS, covering the receipt and distribution of donated foods, and such other reports covering distribution operations in such form as may be required from time to time by the Department.

(t) *Right of inspection and audit.* Representatives of the Department may inspect donated foods in storage, or the facilities used in the handling or storage of such donated foods, and may inspect and audit all records, including financial records, and reports pertaining to the distribution of donated foods and may review or audit the procedures and methods used in carrying out the requirements of this part at any reasonable time. Subdistributing agencies, recipient agencies, and persons contracting to repackage, process, or prepare donated foods shall be required to permit similar inspection and audit by the Department.

(u) *Complaints.* Distributing agencies shall investigate promptly complaints received in connection with the distribution or use of donated foods, correct any irregularities disclosed, and promptly report each instance of serious irregularity to the Department. Distributing agencies shall maintain on file evidence of such investigations and actions. The Department reserves the right to make investigations and shall have the final determination as to when a complaint has been properly adjusted.

(v) *Demurrage.* Demurrage or other charges which accrue after a car or truck has been placed for unloading by the delivering carrier, or which accrue because placement of a car or truck is prevented, shall be borne by the distributing agency, except that demurrage or other charges shall be borne by the Department where such charges accrue because of actions by the Department and without the fault or negligence of the distributing agency.

§ 250.7 Disposition of damaged or out-of-condition foods.

Donated foods which are found to be damaged or out-of-condition and are declared unfit for human consumption by Federal, State, or local health officials, or by other inspection services or persons deemed competent by the Department, shall be disposed of in accordance with instructions of the Department. Such instructions may direct that unfit donated foods be (a) sold in a manner prescribed by the Department with the net proceeds thereof remitted to the Department, (b) sold in a manner prescribed by the Department with the proceeds thereof retained for use in accordance with the provisions of § 250.6(k), (c) used in such a manner as will serve a useful purpose as determined by the Department, or (d) destroyed in accordance with applicable sanitation laws and regulations. Dispositions under the provisions of paragraph (b) of this section shall not apply to section 6 donated foods. Upon a finding by the Department that donated foods are unfit for human consumption at the time of delivery to the distributing agency and when the Department or appropriate health officials require that such donated foods be destroyed, the Department may pay to the distributing agency any expenses incurred in connection with such donated foods as determined by the Department. The Department may in any event repossess damaged or out-of-condition donated foods.

§ 250.8 Eligible recipient agencies.

(a) *Schools or school food authorities.* Schools or school food authorities which participate in the national school lunch program under part 210 of this chapter or the school breakfast program under part 220 of this chapter are eligible to receive donated foods under section 416, section 32, section 709, section 6, and section 14. Commodity-only schools or school food authorities responsible for the operation of school lunch programs of at least one or more commodity-only schools are eligible to receive donated foods under section 416, section 32, section 709 and section 14. Schools or school food authorities receiving donated foods under this part may use such foods for the purpose of training students in home economics, including college students if the same facilities and instructors are used for training both high school and college students in home economics courses.

(b) *Charitable institutions.* (1) Charitable institutions which maintain an established feeding operation on a regular basis as an integral part of their normal activities are eligible to receive donated foods under section 4(a). Charitable institutions receiving such donated foods shall not discriminate against any person receiving food because of race, color, or national origin.

(2) Private charitable institutions, other then hospitals, must be established for the purpose of providing continuing services in the same place without marked change and, at the Department's option, approved by a public welfare agency as meeting a definite need in the community by administering to needy persons.

(3) Charitable institutions which desire to receive donated foods under this part may employ food service management companies to conduct their feeding operations, provided that the charitable institutions enter into written contracts with such companies. Contracts between charitable institutions and food service management companies shall expressly provide that:

(i) Any donated foods received by the charitable institutions and made available to the food service management company shall insure only to the benefit of the charitable institution's feeding operation and shall be utilized therein; and

(ii) The books and records of the food service management company pertaining to the feeding operation of the charitable institution shall be available for a period of three years from the close of the Federal fiscal year to which they pertain for inspection and audit by representatives of the distributing agency, of the Department, and of the General Accounting Office at any reasonable time and place.

(c) *Summer camps.* (1) Nonprofit summer camps for children are eligible to receive donated foods under section 416, section 32, section 709 and section 4(a) if the distributing agency determines that the number of adults participating in camp activities as compared with the number of children under 18 years of age so participating is not unreasonable in light of the nature of the camp and the characteristics of the children in attendance. Persons 18 years of age and over including program directors, counselors, and others who engage in recreational, educational, and direct administrative functions are considered as adults participating in the activities of a summer camp. Employees whose presence on camp premises is solely for the purpose of performing duties such as cooking, gardening,

property maintenance, or similar support functions are not considered as adults participating in summer camp's activities. In no event are persons such as nurses, therapists, and attendants who perform professional, supervisory, or custodial services to be considered as adults participating in the activities of a summer camp if they perform services essential to the participation of mentally, emotionally, or physically handicapped children.

(2) Nonprofit summer camps for children which desire to receive donated foods under this part may employ food service companies to conduct their feeding operations provided that such services are contracted for on the same basis as is stated in paragraph (b) of this section.

(d) *State agencies.* State agencies which make distribution to needy persons in households are eligible to receive foods under section 416, section 32, section 709 and section 4(a), provided they serve households certified in accordance with a plan of operation approved by FNS, as required by § 283.5(a) of this chapter or with respect to households in the Trust Territory of the Pacific Islands, as required by § 250.6(e) of this part.

(e) *Disaster organizations.* Disaster organizations are eligible to receive donated foods under section 416, section 32, section 709 and section 4(a) for distribution to disaster victims. Distributing agencies making distribution to such organizations shall immediately inform the appropriate FNSRO thereof. Such organizations shall be eligible for the duration of the disaster, as determined by the Secretary, but they may make distribution of federally donated foods to households in areas where the Food Stamp Program is in operation only so long as the Secretary finds that the commercial channels of food distribution have been disrupted because of any emergency situation caused by a national or other disaster.

(f) *State correctional institutions for minors.* State correctional institutions for minors are eligible to receive commodities under section 210.

(g) *Service institutions.* Service institutions which participate in the Summer Food Service Program for Children under Part 225 of this chapter are eligible to receive commodities under section 416, section 32, section 709, section 6, and section 14.

(h) *Nutrition programs for the elderly.* Nutrition programs for the elderly are eligible to receive donated foods under section 416, section 32, section 709, and section 14. The distributing agency shall allocate foods to nutrition programs for the elderly within a State in accordance with the needs prescribed by the State Agency on Aging pursuant to the current regulations and guidelines of the Commissioner on Aging. If a nutrition program for the elderly employs a food service company to conduct its feeding operation, the provisions of paragraph (b)(3) of this section shall be applicable.

(i) *Nonresidential child care institutions.* Nonresidential child care institutions which participate in the Child Care Food Program under Part 226 of this chapter are eligible to receive donated foods under section 416, section 32, section 709, section 6 and section 14.

§ 250.9 Eligible recipients.

(a) *Needy persons in households.* Needy persons in households are eligible to receive foods donated under section 416, section 32, section 709, and section 4(a), provided the household is certified in accordance with the plan of operation approved by FNS, as required by § 283.5(a) of this chapter or, with respect to households in the Trust Territory of the Pacific Islands and the Northern Marianas, as required by § 250.6(e) of this part.

(b) *Disaster victims.* Disaster victims are eligible to receive commodities under section 416, section 32, section 709, and section 4(a).

§ 250.10 Special feeding programs.

In situations of distress in which needs for food assistance cannot be met under other provisions of this part, any distributing agency may, upon request to and approval by the Secretary, distribute donated foods to any institution, or to any association of persons engaged in charitable activities, for use in conducting special group-feeding programs on a temporary basis for persons in need of such food assistance. The distributing agency, and any such institution or association, shall conduct any distribution under this section in accordance with such instructions as the Secretary may specify, and any such institution or association shall give to the distributing agency an assurance that feeding programs will be conducted in accordance with the instructions.

§ 250.11 [Reserved]

§ 250.12 Operating expense funds for distributing agencies.

(a) *Purpose.* The Department will make payments to distributing agencies to assist them in meeting operating expenses incurred in administering food distribution for needy persons in households. "Distributing agency(ies)" for the purposes of this section shall refer only to the distributing agency for the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas, and payment of administrative funds for food distribution to households on Indian reservations shall be made under the provisions of § 283.9 of this chapter.

(b) *Use of funds.* Distributing agencies shall make every reasonable effort to insure the availability of a food distribution program for needy persons in households residing in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas and shall assign priority, in the use of any funds received under this section, to accomplish that objective. Any remaining funds shall be used to expand and improve distribution to households. Such funds may be used for any costs which are not disallowed under Federal Management Circular 74–4 (a copy of which may be obtained from FNS) and which are incurred in distributing donated foods to households, including determining eligibility of recipients, except for the purchase cost of land and buildings. In no event shall such funds be used to pay any portion of any expenses if reimbursement or payment therefor is claimed or made available from any other Federal source.

(c) *Apportionment of funds.* The Department shall apportion the funds available for the purpose of this section for any fiscal year among distributing agencies which are responsible for food distribution programs to households. The amount of funds apportioned to each distributing agency shall be such amount as FNS determines is necessary to effectuate the purposes of this section. The apportionment of funds under this paragraph shall not be regarded as conveying to any distributing agency a vested right to any fixed amount of funds.

(d) *Notification of availability.* As soon as practicable after funds for the purpose of this section are made available, written notification of the amount of funds apportioned and the period for which they are available shall be given to the distributing agency for which such funds are available.

(e) *Payments of funds.* Upon receiving notification of the amount of funds available to it, each distributing agency shall advise FNS of the amount estimated to be required for the fiscal year. FNS shall, if it concurs, issue a Letter of Credit to the appropriate Federal Reserve Bank in favor of the distributing agency. The distributing agency shall obtain funds needed through presentation by designated officials of a Payment Voucher on Letter of Credit to a local commercial bank for

transmission to the appropriate Federal Reserve Bank, in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department. The distributing agency shall draw only such funds as are needed to pay claims certified for payment and shall use such funds without delay to pay the claims.

(f) *Agreements.* Each distributing agency which desires to receive funds under this section shall execute and submit to FNSRO a letter of acceptance agreeing to: (1) expend any funds received solely for the purpose of this section; (2) furnish reports under this part; and (3) amend the existing agreement between the distributing agency and the Department to incorporate contractual provisions required in Government contracts, including the Equal Opportunity clause (section 202 of Executive Order No. 11246 of September 24, 1965) and provisions required by the Contract Work Hours Standards Act (40 U.S.C. 327–330) and the Service Contract Act of 1965 (41 U.S.C. 351–357).

(g) *Records, reports, audits.* Distributing agencies shall (1) maintain, and retain for 3 years from the close of the Federal fiscal year to which they pertain, complete and accurate records of all amounts received and disbursed under this section, (2) keep such accounts and records as may be necessary to enable FNS to determine whether there has been compliance with this section, and (3) permit representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy such records and accounts at any reasonable time. Distributing agencies shall submit monthly reports to FNS on Form FNS–60 concerning the obligations, expenditure and status of funds received under this section. In addition, distributing agencies receiving funds under this section shall submit any other reports in such form as may be required from time to time by the Department.

§ 250.13 Miscellaneous provisions.

(a) *Sanctions.* Any distributing agency which has failed to comply with the provisions of this part or any instructions or procedures issued in connection herewith, or any agreements entered into pursuant hereto, may, at the discretion of the Department, be disqualified from further participation in any distribution program. Reinstatement may be made at the option of the Department. Disqualification shall not prevent the Department from taking other action through other available means when considered necessary, including prosecution under applicable Federal statutes.

(b) *Embezzlement, misuse, theft, or obtainment by fraud of commodities and commodity-related funds, assets, or property in child nutrition programs.* Notwithstanding § 250.4(f) of this part concerning transfer of title to commodities, whoever embezzles, willfully misapplies, steals, or obtains by fraud, commodities donated for use in any program authorized under the National School Lunch Act, as amended, or the Child Nutrition Act of 1966, as amended, or any funds, assets, or property deriving from such donations or whoever receives, conceals, or retains such commodities, funds, assets, or property for his own use or gain, knowing such commodities, funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to Federal criminal prosecution under section 12(g) of the National School Lunch Act, as amended. For the purpose of this paragraph "funds, assets, or property" include, but are not limited to, funds accruing from the sources identified in § 250.6(k) of this part, commodities which have been processed into different end products as provided for by § 250.6(n) of this part, and the containers in which commodities have been received from the Department. Distributing agencies shall immediately notify FNSRO of any suspected violation of section 12(g) of the National School Lunch Act to allow the Department, in conjunction with the U.S. Department of Justice, to determine whether Federal criminal prosecution under section 12(g) is warranted. Prosecution of violations under section 12(g) by the Federal Government shall not relieve any distributing agency of its obligations to obtain recovery for improperly distributed or lost commodities, as required by § 250.6(m) of this part.

(c) *Distributing agency requirements.* Distributing agencies may impose additional requirements for participation that are not inconsistent with the provisions of this part, except that this provision shall not apply to participation by households on all or part of an Indian reservation under Part 283 of this chapter.

(d) *Nondiscrimination.* Distributing agencies and recipient agencies are subject to the Department's regulations effectuating Title VI of the Civil Rights Act of 1964 (Part 15 of this title) to the end that no persons 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 receiving Federal financial assistance from the Department.

(e) *Persons sharing common food facilities.* It shall not be deemed a failure to comply with the provisions of this part if recipient agencies serve meals containing donated foods to persons other than those who are eligible under this part, when such persons share common preparation, serving or dining facilities with eligible persons (needy persons, disaster victims, children) and one of the following is true:

(1) Such other persons are common beneficiaries with the eligible persons of the program of the recipient agency, or (2) such other persons are few in number compared to the eligible persons and receive their meals as an incident of their service to the eligible persons. Such other persons include, but are not limited to, teachers, disaster relief workers, and staff members.

Nothing in this paragraph shall be construed as authorizing allocation or issuance of donated foods to recipient agencies in greater quantity than that authorized for the assistance of persons eligible under this part, or as relieving the recipient agency of the responsibility for purchasing a volume of food which is at least adequate to feed all persons who are not eligible under this part.

(f) *Processing contracts.* Processing contracts entered into in accordance with § 250.6(n) of this part are public records and FNS will provide copies of such contracts to any person upon request. FNS also may use copies of such contracts in developing informational releases pertaining to the processing of donated foods by commercial or institutional facilities. FNS Regional Offices shall retain copies of processing contracts submitted by distributing agencies for a period of three years from the close of the Federal fiscal year to which they pertain and may review such contracts for the purpose of advising and counseling distributing agencies with respect to the provisions of such contracts. However, FNS assumes no liability with regard to the provisions of processing contracts or performance related thereto since FNS is not a party to such contracts and the contracts are not subject to FNS' approval.

(g) *Cash in lieu of commodities for nutrition programs for the elderly.*

(1) Any State Agency on Aging may, for the purposes of the programs authorized by titles III and VI of the Older Americans Act of 1965, as amended, elect to receive cash payments in lieu of all or any portion of

the donated foods that would otherwise be received under § 250.4(b)(4) of this part during the Federal fiscal year.

(2) When such an election is made, it shall be binding on the State for that fiscal year, and the Secretary shall make cash payments to such State equivalent in value to the donated foods it otherwise would have received. Advance cash payments to such State shall be made for each Federal fiscal quarter by means of Letters of Credit issued by FNS through the appropriate U.S. Treasury Regional Disbursing Office or, where applicable, by means of U.S. Treasury checks in favor of the State Agency on Aging, based on the best data available to FNS at the time as to the number of meals to be served within the State during that fiscal quarter in nutrition programs for the elderly.

(3) The State Agency on Aging desiring to receive funds under this paragraph shall enter into a written agreement with FNS to: (i) Promptly and equitably disburse any cash it receives in lieu of donated foods to nutrition programs for the elderly after consideration of the needs of such programs and the availability of other resources, including any donated foods available under § 250.4(b)(4) of this part; (ii) establish such procedures as may be necessary to ensure that such disbursements are used by nutrition programs for the elderly solely for the purpose of purchasing U.S. agricultural commodities and other foods for their feeding operations; (iii) maintain and retain for 3 years from the close of the Federal fiscal year to which they pertain complete and accurate records of (A) all amounts received and disbursed under this paragraph and (B) the manner in which consideration was given to the needs and resources as required by paragraph (f)(3)(i) of this section; and (iv) permit representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy such records at any reasonable time.

(h) *Cash in lieu of commodities for child nutrition programs.* Where a State has phased out its commodity distribution facilities prior to July 1, 1974, such State may, in accordance with Part 240 of this chapter, elect to receive cash payments in lieu of donated foods for use in programs conducted under the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended.

(i) *Program monitoring.* (1) Distributing agencies shall monitor and review their operations under this part to ensure compliance with the provisions of this part and with any applicable instructions of FNS.

(2) State Agencies on Aging which receive cash payments in lieu of donated foods in accordance with the provisions of paragraph (f) of this section shall monitor use of such cash after disbursement to nutrition programs for the elderly to ensure that the amounts so received are expended solely for the purchase of U.S. agricultural commodities and other foods for such programs.

§ 250.14 Where to obtain information.

Interested persons desiring information concerning the program may make written request to the following Regional Offices:

(a) New England Region, Food and Nutrition Service, USDA, 34 Third Avenue, Burlington, Massachusetts 01803, for the following States: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

(b) Mid-Atlantic Region, Food and Nutrition Service, USDA, One Vahlsing Center, Robbinsville, New Jersey 08691, for the following States: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia.

(c) Southeast Region, Food and Nutrition Service, USDA, 1100 Spring Street, NW, Atlanta, Georgia 30309, for the following States: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(d) Midwest Region, Food and Nutrition Service, USDA, 536 South Clark Street, Chicago, Illinois 60605, for the following States: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

(e) Mountain Plains Region, Food and Nutrition Service, USDA, 2420 West 26th Avenue, Room 400–D, Denver, Colorado 80211 for the following States: Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

(f) Southwest Region, Food and Nutrition Service, USDA, 1100 Commerce Street, Room 5–D–22, Dallas, Texas 75202, for the following States: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

(g) Western Region, Food and Nutrition Service, USDA, 550 Kearney Street, Room 400, San Francisco, California, 94108, for the following States: Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory, Commonwealth of the Northern Marianas and Washington.

Dated: December 10, 1980.

Carol Tucker Foreman,

Assistant Secretary.

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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

INTERIOR DEPARTMENT

Land Management Bureau—

75665 11-17-80 / Nevada; revocation of stuck driveway withdrawals

List of Public Laws

Last Listing December 15, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 6889 / Pub. L. 96-512 Methane Transportation Research, Development, and Demonstration Act of 1980. (Dec. 12, 1980; 94 Stat. 2827) Price $1.00.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

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

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: January 16 and 30; February 13 and 27; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202-523-5235.