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## 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.

1681 **Income Tax** Treasury/IRS publishes regulations regarding allowance of deductions for interest expense to foreign corporations doing business in the United States

1687 **Income Tax** Treasury/IRS publishes final regulations relating to limitations on benefits and contributions under qualified pension plans

2020 **Traffic Control** DOT/FHwA gives advance notice of proposed amendments to the Manual on Uniform Traffic Control Devices; comments by 7-15-81 (Part VI of this issue)

1719 **Income Tax** Treasury/IRS publishes regulations relating to voluntary employees' beneficiary associations

1744 **Investment Companies** Treasury/IRS proposes regulations concerning limitations on reorganization treatment for certain investment companies; comments by 3-9-81

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# Highlights

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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.

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# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 7 CFR Part 6

### Section 22 Import Quotas; Certain Dairy Products

**AGENCY:** Foreign Agricultural Service.

**ACTION:** Final rule.

**SUMMARY:** This rule amends Import Regulation 1, which governs the administration of an import licensing system for certain dairy products subject to quota under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. The amendments in this final rule are designed to: (1) assure that licensees holding a historical license for Italian-type cheese in original loaves (TSUS Appendix Item 950.10) from the European Community (EC) will receive their full basic annual allocation (BAA); (2) make the necessary changes as required by Presidential Proclamation 4811, and (3) make several changes which are necessary for consistency and clarity of the regulation and ease of operation of the licensing program.

**EFFECTIVE DATE:** January 8, 1981.

**FOR FURTHER INFORMATION CONTACT:** Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Commodity Programs, Foreign Agricultural Service, Room 6616, South Building, Department of Agriculture, Washington, D.C. 20250, (202) 447-5270. 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 received under USDA procedures established in Secetary's Memorandum 1955 to implement Executive Order 12044 and has been classified as "not significant". Thomas Hughes, Administrator, Foreign Agricultural Service (FAS), has determined that good cause exists for not postponing the effective date of these final rules until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Immediate implementation of these amendments is required in order to issue certain licenses for 1981 in accordance with the changes specified in the regulation.

The proposed rule amending Import Regulation 1 was published in the **Federal Register** (45 FR 70873) on October 27, 1980. The 30-day public comment period ended on November 28, 1980. Written comments were received from only a few entities.

**Discussion Of Comments**

*Italian-type cheese from Argentina*

One comment dealt with the shift of 91 tons of TSUS Appendix Item 950.10 (Italian-type cheese in original loaves) for Argentina from Appendix 2 [Group IV(a)] to Appendix 1 [Group IV(a)]. The commentator concurred with the shift which will assure that all historical licensees for that cheese will receive their full basic annual allocation.

*Other Cheese-NSPF-Other Countries*

Two comments dealt with the addition of 71 metric tons of TSUS Appendix Item 950.10D (Other Cheese-NSPF) for Other Countries under Group V(c) of Appendix 2. One objected to the addition of this amount to the allocated quota for this article, citing the heavy domestic surplus of dairy products and attendant government expenditures for Commodity Credit Corporation purchases under the Dairy Price Support Programs. Another comment supported the increase but seemed to object to the proposal to limit eligibility for the new historical part of the quota to those importers who have no other historical licenses, excluding some current licensees who might have brought in Other Cheese from Other Countries. Presidential Proclamation 4811 of December 30, 1980 provides for the additional quota of 71 tons. This additional amount will not cause imports to exceed the 111,000 metric tons permitted under the Trade Agreements Act of 1979 (Pub. L. 96-39; hereinafter called "the Act"). The limitation on eligibility is necessary to fulfill the intent of the increased quota, i.e., to assure that those importers of "Other Cheese" from "Other Countries" completely shut out of their traditional cheese trade at the time the Act was implemented, receive reasonable quantities of new historical licenses.

An application period for both new historical and supplementary licenses for this quota is set forth in this final rule to begin on January 22, 1981. However, applications for new historical license for this item sent in anytime prior to February 11, 1981 which are deemed sufficient by the Department for license eligibility need not be resubmitted. Those importers whose applications for 1981 supplementary license are complete may apply by letter (without further documentation) dated no earlier than January 22, 1981 and no later than February 11, 1981.

*Penalties for Less Than 85 Percent Utilization of Reallocation Quota Shares*

Two comments were received with regard to the penalties proposed for nonuse of reallocated quota shares. One objected to the entire idea. The other approved of the principle of penalties but felt that the level of utilization required to avoid a penalty as well as the penalty itself were too restrictive given the relatively short time an importer has to use the reallocated share received. The Licensing Authority has taken these views into consideration, but has retained the proposed penalty in the final rule in an attempt to keep penalties as uniform and as simple as possible and to ensure maximum utilization of the quota. Comments were also received with regard to treating the reallocated shares allocated to all licenses—historical, non-historical and supplementary—in a like manner. This was the intent of the Licensing Authority as can be seen in the Draft Impact Analysis Statement and has thus been incorporated into the final rule in § 6.25, paragraph (d)(3).

*Other*

Presidential Proclamation 4811 has also resulted in a shift in Appendix 2 of 400 metric tons from TSUS Appendix Item 950.10D [Group V(c)] from Switzerland to TSUS Appendix Item 950.10C [Group V(b)] from the same country. New historical licenses will be

adjusted and all importers holding such licenses have been so advised.

This final rule differs from the proposed rule and the regulations in several places where changes were made for stylistic and editorial purposes. These changes are not substantive in nature and include for the most part reorganizing sentences within a section for improved readability and deleting obsolete material.

Accordingly 7 CFR, Part 6—Subpart Section 22 Import Quotas, § 6.21, § 6.25, § 6.26, § 6.29, and Appendices 1 and 2 are amended as follows:

| | | |
|---|---|---|
| 1. Appendix 1 [Amended] | | |
| Group IV(a) is amended by changing the line for Argentina to read: | | |
| Argentina | 3,191,000 | 7,034,878 |
| 2. Appendix 2 [Amended] | | |
| Group IV(a) is amended by changing the line for Argentina to read: | | |
| Argentina | 659,000 | 1,452,832 |
| Group V(b) is amended by changing the line for Switzerland to read: | | |
| Switzerland | 837,000 | 1,845,238 |
| Group V(c) is amended as follows: | | |
| 1. Change the line for Switzerland to read: | | |
| Switzerland | 1,122,000 | 2,473,544 |
| 2. Add the line: | | |
| Other Countries | 71,000 | 156,526 |

3. Section 6.21, paragraph (m) and (s) are revised to read as follow:

**§ 6.21 Definitions**

* * * * *

(m) "EC" means the ten European Community countries, viz., Belgium, Denmark, the Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom, which for the purposes of this regulation shall be deemed as one country of origin.

* * * * *

(s) "Licensing Authority" means the Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture, or in his or her absence the Import Quota Specialist, or any other officer or employee of the Department designated in writing as the Acting Head.

* * * * *

4. Section 6.25, paragraphs (a)(2), (c)(2), and (d)(3) are revised to read as follows:

**§ 6.25 Eligibility.**

(a) * * *

(2) Historical eligibility for licenses to enter quota shares of articles under Group V of Appendix 2, which prior to January 1, 1980 were not subject to quota, will be established upon submission by the importer of copies of broker's copies of official consumption entry or warehouse withdrawal for consumption records, Customs forms 7501 and 7505, showing the applicant as the importer of record or importer of account for entries made during the period July 1, 1978 through June 30, 1979 of cheese, cheese product or substitutes for cheese falling under TSUS Nos. 117.6035 (Swiss or Emmenthaler), 117.6055, 117.7550, 117.8550 (Gruyere-Process), 117.7560, 117.8560 except soft-ripened cheese (Other cheese, NSPF, except soft-ripened cheese), and 117.7570 and 117.8570 (Other cheese, Lowfat). Copies of other than the broker's copy will only be accepted if it is established that, for reasons satisfactory to the Licensing Authority, the broker's copy is not available. The Licensing Authority may also require a copy of the invoice or other documentation showing that the importer was the owner of the article at the time entry was made and substantiating the type or variety of cheese entered. Such invoices should accompany an application for Appendix 2 historical licenses for TSUS items 117.7560 and 117.8560. Further, eligibility for articles in Group V(c) from "Other Countries" in Appendix 2 may be established only by importers who hold no other historical license for any article under Appendix 1 or Appendix 2 as of January 7, 1981. Applications for historical license for TSUS Appendix Item 950.10D from "Other Countries" in Appendix 2 must be postmarked no later than February 11, 1981.

* * * * *

(c) * * *

(2) Notwithstanding paragraph (b)(4) of this section, certification required to establish supplementary eligibility for license for TSUS Appendix item 950.10D from "Other Countries" for 1981 must be postmarked no earlier than January 22, 1981 and no later than February 11, 1981. Importers who have already submitted supplementary license certification during the application period which ended November 1, 1980, may simply request license for this article by submitting a letter without further documentation postmarked as required in this paragraph.

(d) * * *

(3) Any licensee who fails to enter at least 85 percent of a particular nonhistorical or supplementary quota share for any article for a given year will be ineligible to have such nonhistorical or supplementary quota share renewed for the next quota year, unless such licensee notifies the Licensing Authority in a letter postmarked no later than October 1 of the quota year for which his license is valid, of his intentions to enter less than 85 percent of his quota share and surrenders to the Licensing Authority that portion of the quota share which he or she does not intend to use. If, after surrendering a portion of a nonhistorical or supplementary quota share of an article, a licensee fails to import 85 percent or more of the unsurrendered portion of the quota share, such licensee will be ineligible to receive a license to import a quota share of such article in the next quota year, unless the licensee establishes that he or she was unable to enter such article due to reasons acceptable to the Licensing Authority. Furthermore, failure to enter more than 85 percent of the total of a particular nonhistorical or supplementary quota share combined with any reallocated portions added to such original share (despite more than 85 percent utilization of the original share) will result in the licensee being ineligible for a reallocated portion for that item in the following year.

* * * * *

5. Section 6.26 is amended by revising paragraph (c)(2)(i), adding a new paragraph (c)(4) and revising paragraphs (d)(1) and (e)(2)(ii) to read as follows:

**§ 6.26 Allocation of annual quota and issuance of licenses.**

* * * * *

(c) * * *

(2) A supplementary quota share for an article in Appendix 2 from the EC will be determined on the following basis:

(i) Subject to paragraph (c)(1) of this section, the size of supplementary quota share issued to an eligible applicant for a specific article in Appendix 2 shall not exceed (A) for applicants who have historical quota shares in Appendix 2 from the EC for such article: an amount equal to the amount of the applicant's Appendix 2 historical quota share, or the amount of each supplementary quota share for such article allocated to applicants who have no Appendix 2 historical quota share for such article, whichever is larger; (B) for applicants who have no such historical quota shares: 110,000 pounds.

* * * * *

(4) Supplementary quota shares for an article may not be smaller than the applicable minimum quantity set forth in paragraph (c)(2)(ii) unless requested in writing by the applicant, but in no case shall the quota share be greater than the quantity requested by the applicant.

(d) *Temporary reduction of historical quota share.* (1) Subject to provisions of paragraph (e) of this section, the

historical quota share for any article in Appendix 1 or Appendix 2 which is not entered by its holder at the rate of 85 percent or more during a calendar year will be reduced in the following quota year, unless such licensee establishes that he or she was unable to enter such article due to reasons acceptable to the Licensing Authority. Such reduced historical quota share will be equal to the amount imported during the preceding quota year. If a historical license is not used by its holder in a given year, then the amount allocated to the holder for the following quota year shall be one-quarter of the basic annual allocation of that license. *Provided*, that, once such reduced quota share has been established, the quota share of the licensee in the following quota year will be restored to its full basic annual allocation if the licensee enters 85 percent or more of the reduced quota share during the quota year when it was established. This paragraph applies to a licensee who receives any extra quota shares from other reduced licenses or reallocated portions. If less than 85 percent of the combined total of the license amount and the reallocated amount is used, then the licensee will be ineligible for reallocated portions and in some cases for extra quota shares from other reduced licenses the following quota year whether or not the quota share in the following year is below the basic annual allocation for that license.

* * * * *

(e) * * *

(2) * * *

(ii) If, after a surrendered quota share is reallocated among licensees who hold a nonreduced license for such quota and apply for a portion of the reallocation, unallocated quantities of the quota still remain, such quantities may be allocated to other non-affiliated and non-associated applicants who have historical, nonhistorical or supplementary eligibility for any quota under the regulation for the remainder of the quota year in question. Quota shares allocated to such other applicants under this provision will be made in equal amounts of not less than 2,500 pounds each; except in the case of quota items the quota amounts for which are less than 10,000 pounds, which quota items will be allocated in equal shares of not less than 250 pounds each; except that no applicant will receive more than the amount requested in his or her application.

* * * * *

6. Section 6.29, paragraph (b)(3) is revised to read as follows:

**§ 6.29 Suspension or revocation of eligibility.**

* * * * *

(b) * * *

(3) *Revocation of license eligibility.* The Licensing Authority, upon reasonable cause to believe—after records are reviewed and a preliminary investigation is made by the Department—that a licensee has violated the provisions of the regulation or has furnished false or incomplete information in connection with the application for or use of licenses issued hereunder, may, after notice to the licensee, revoke said licensee's eligibility (a permanent revocation of historical eligibility) and may bar such person from receiving any supplementary or nonhistorical licenses for a period of not more than three years. Any person whose eligibility has been revoked pursuant to provisions of this section will have the opportunity to appeal the determination to the Director, Dairy, Livestock and Poultry Division, Foreign Agricultural Service (FAS), or his or her designee within 30 days from the date of notification. The request for reconsideration will be presented in writing specifically stating any reason as to why such determination should not stand. The Director, Dairy, Livestock and Poultry Division, FAS will provide such person with an opportunity for a hearing on such matter. A further appeal may be made to the Administrator, FAS within five working days of the notification of the decision of the Director, Dairy, Livestock and Poultry Division, FAS.

(Sec. 3, Pub. L. 80–897, 62 Stat. 1248, as amended (7 U.S.C. 624); secs. 701, 703, Pub. L. 96–39, 93 Stat. 268, 272 (19 U.S.C. 1202 note). Part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202))

Signed, this 2nd of January 1981.

**Thomas R. Hughes,**

*Administrator, Foreign Agricultural Service.*

[FR Doc. 81-479 Filed 1-6-81; 8:45 am]

BILLING CODE 3410-10-M

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## Animal and Plant Health Inspection Service

## 7 CFR Part 354

## Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Plant Protections and Quarantine performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

**EFFECTIVE DATE:** January 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** H. V. Autry, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine, U.S. Department of Agriculture, Hyattsville, MD 20782 (301–436–8247).

**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 determined to be exempt from those requirements. Nicholas E. Bedessem, Special Assistant to the Administrator, made this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. These amendments merely reflect such changes and serve to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, January 5, September 28, December 18, 1979, March 21, July 11, and October 10, 1980, (44 FR 1364, 55791, 74791, 45 FR 18367, 46785, and 67288) prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding (in appropriate alphabetical sequence) the information as shown below:

**§ 354.2 Administrative instructions prescribing commuted traveltime.**

* * * * *

**Commuted Traveltime Allowances**

[In hours]

| Location covered | Served from | Metropolitan area | |
|---|---|---|---|
| | | Within | Outside |
| Add: | | | |
| * * * * * | | | |
| Mexico: | | | |
| Camargo | Roma, TX | | 1 |
| Cuidad Acuna | Del Rio, TX | | 1 |
| Cuidad Juarez | El Paso, TX | | 1 |
| Matamoros | Brownsville, TX | | 1 |
| Mier | Roma, TX | | 1 |
| Nuevo Cd. Guerrero | Roma, TX | | 1 |
| Nuevo Laredo | Laredo, TX | | 1 |
| Nuevo Progreso | Progreso, TX | | 1 |
| Ojinago | Presidio, TX | | 1 |
| Piedras Negras | Eagle Pass, TX | | 1 |
| Reynosa | Hidalgo, TX | | 1 |
| * * * * * | | | |

(64 Stat. 561; (7 U.S.C. 2260))

Therefore, 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 rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Done at Washington, D.C., this 31st day of December 1980.

**Harvey L. Ford,**

*Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.*

[FR Doc. 81-449 Filed 1-6-81; 8:45 am]

BILLING CODE 3410-34-M

## Agricultural Marketing Service

## 7 CFR Parts 916 and 917

## Nectarines, Pears, Plums, and Peaches Grown in California; Increases in Expenses

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Amendment to final rules.

**SUMMARY:** This action authorizes increases in expenses of the Nectarine Administrative Committee and Peach Commodity Committee to support marketing order activities for the 1980–81 fiscal year. These committees are established under Federal Marketing Order Nos. 916 and 917, respectively.

**DATES:** March 1, 1980, through February 28, 1981.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this action is available upon request from Mr. McGaha.

**SUPPLEMENTARY INFORMATION:** This amendment to final rules has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This amendment is issued under Marketing Order Nos. 916 and 917 (7 CFR Parts 916 and 917), respectively, regulating the handling of nectarines grown in California (M.O. 916), and fresh pears, plums, and peaches grown in California (M.O. 917). These programs are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the respective committees, established under these marketing orders, and upon other information. It is found that the amendment to the expenses of the committees, as hereinafter provided, will tend to effectuate the declared policy of the act.

The committees report that an unanticipated increase in Federal-State inspection costs and market research and development costs resulted in the need to increase the level of authorized expenses.

These actions were recommended at public meetings at which all present could state their views. There is insufficient time between the date when information became available upon which this final action is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register.**

(5 U.S.C. 553)

Accordingly, it is found that the provisions of paragraph (a) of §§ 916.219 and 917.228 (45 FR 53450) are amended to read as follows:

**§ 916.219 Expenses, rate of assessment, and carryover of unexpended funds.**

(a) Expenses that are reasonable and likely to be incurred by the Nectarine Administrative Committee during fiscal year March 1, 1980, through February 28, 1981, will amount to $1,870,000.

* * * * *

**§ 917.228 Expenses, rate of assessment, and carryover of unexpended funds.**

(a) Expenses that are reasonable and likely to be incurred by the Peach Commodity Committee during fiscal year March 1, 1980, through February 28, 1981, will amount to $1,440,000.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 31, 1980.

**D. S. Kuryloski,**

*Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 81-451 Filed 1-6-81; 8:45 am]

BILLING CODE 3410-02-M

## FEDERAL RESERVE SYSTEM

## 12 CFR Part 226

**[Reg. Z; FC-0051]**

## Truth in Lending; Official Staff Interpretation

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Correction of Official Staff Interpretation FC–0051.

**SUMMARY:** This document corrects the headnote to Official Staff Interpretation FC–0051 in FR Doc 77–7943 appearing at page 14859 in the issue of Thursday, March 17, 1977, 2nd column.

**FOR FURTHER INFORMATION CONTACT:** Gerald P. Hurst, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3667).

**EFFECTIVE DATE:** December 31, 1980.

In FR Doc 77–7943 appearing at page 14859 in the issue of Thursday, March 17, 1977, 2nd column, headnotes of FC–0051 should read:

§§ 226.7(a) and (b), 226.8(b). Method of computing the APR is not a required disclosure.

§§ 226.7(a), 226.8(b)(4) and (6). Accruing finance charges on a loan where a daily rate is applied to the actual balance for the number of days the balance is outstanding does not involve prepayment penalty or late payment penalty if the payment is not made on the anticipated due date.

§§ 226.7(a) and (b). Stating that finance charges will be computed on the outstanding balance at the applicable APR for the actual time the balance remains unpaid is, in this situation, a permissible method of disclosing the method of computing the balance upon which finance charges will be computed for open end credit accounts.

* * * * *

Board of Governors of the Federal Reserve System, December 30, 1980.

**Theodore E. Allison,**

*Secretary of the Board.*

[FR Doc. 81-524 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

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**12 CFR Part 265**

**Rules Regarding Delegation of Authority**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The International Banking Act of 1978 requires a foreign bank to enter into agreement with the Board that a U.S. branch outside of the foreign bank's home State would receive only such deposits at the place of operation of such [a] branch as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act under rules and regulations administered by the Board. The Board has delegated its authority to enter into such an agreement to the Federal Reserve Banks.

**EFFECTIVE DATE:** December 30, 1980.

**FOR FURTHER INFORMATION CONTACT:** C. Keefe Hurley, Jr., Senior Counsel (202/452-3269), or James S. Keller, Senior Attorney (202/452-3582), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** Section 5(a) of the International Banking Act of 1978 (12 U.S.C. § 3103) prohibits a foreign bank from establishing or operating a Federal or State branch outside of its home State unless the foreign bank has entered into an agreement or undertaking with the Board of Governors to receive only such deposits at that branch as would be permissible for an Edge Corporation under rules and regulations administered by the Board. The Board of Governors has delegated its authority to enter into such an agreement or undertaking with a foreign bank to the Federal Reserve Banks.

The provisions of 5 U.S.C. § 553 relating to notice, public participation and deferred effective date are not followed in connection with adoption of the amendment because the change involved is procedural in nature and does not constitute a substantive rule subject to the requirements of that section.

Pursuant to its authority under the International Banking Act of 1978 (12 U.S.C. § 3101 *et seq.*), the Board amends its Rules Regarding Delegation of Authority by adding § 265.2(f)(49) to read as follows:

**§ 265.2 Specific functions delegated to Board employees and to the Federal Reserve Banks.**

* * * * *

(f) Each Federal Reserve Bank is authorized as to a member bank or other indicated organization for which the Reserve Bank is responsible for receiving applications or registration statements; as to its offices under subparagraph (23) of this paragraph; and as to its own facilities under subparagraph (26) of this paragraph:

* * * * *

(49) Under the provisions of section 5 of the International Banking Act of 1978 (12 U.S.C. § 3103), to enter into an agreement or undertaking with a foreign bank that such bank shall receive only such deposits at its out-of-home State branch as would be permissible for an Edge Corporation.

By order of the Board of Governors of the Federal Reserve System, December 30, 1980.

**Theodore E. Allison,**

*Secretary of the Board.*

[FR Doc. 81-454 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

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**12 CFR Part 265**

**Rules Regarding Delegation of Authority**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** In order to fulfill its responsibility under the International Banking Act of 1978 with regard to the examination of branches, agencies, banks and commercial lending company subsidiaries of foreign banks, the Board of Governors has delegated the authority for selecting and approving the appointment of examiners of such institutions to the Director of the Board's Division of Banking Supervision and Regulation.

**EFFECTIVE DATE:** December 30, 1980.

**FOR FURTHER INFORMATION CONTACT:** Kathleen M. Reddy, Analyst (202-452-2603), Division of Banking Supervision and Regulation; James S. Keller, Senior Attorney (202-452-3582), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** Section 7(c)(1) of the International Banking Act of 1978 (12 U.S.C. § 3105(b)(1)) authorizes the Board of Governors to "make examinations of each branch or agency of a foreign bank, and of each commercial lending company or bank controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank. . . ." The Board of Governors must appoint examiners to carry out these examinations and has delegated the selection of such examiners and the approval of their appointments to the Director of the Board's Division of Banking Supervision and Regulation.

The provisions of 5 U.S.C. § 553 relating to notice, public participation and deferred effective date are not followed in connection with adoption of the amendment because the change involved is procedural in nature and does not constitute a substantive rule subject to the requirements of that section.

Pursuant to its authority under the International Banking Act of 1978 (12 U.S.C. § 3101 *et seq.*), the Federal Reserve Act (12 U.S.C. § 226 *et seq.*, and 248(k)), and the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841 *et seq.*), the board amends its Rules Regarding Delegation of Authority by revising § 265.2(c)(1) to read as follows:

**§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.**

* * * * *

(c) The Director of the Division of Banking Supervision and Regulation (or, in the director's absence, the Acting Director) is authorized:

(1) Under the provisions of sections 9 and 25(a) of the Federal Reserve Act (12 U.S.C. §§ 325, 338 and 625), section 5(c) of the Bank Holding Company Act (12 U.S.C. § 1844(c)), and section 7(c)(1) of the International Banking Act of 1978 (12 U.S.C. § 3105(b)(1)), to select or to approve the appointment of Federal Reserve Examiners, assistant examiners and special examiners for the purpose of making examinations for or by the direction of the Board.

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 30, 1980.

**Theodore E. Allison,**

*Secretary of the Board.*

[FR Doc. 81-455 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

## CIVIL AERONAUTICS BOARD

### 14 CFR Part 203

**[Regulation ER-1207; Amendment No. 2; Docket: 38783]**

### Removal of Certificate Restrictions

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Interim final rule.

**SUMMARY:** The CAB is amending its restriction removal program. The rules for this program establish procedures for the gradual elimination of operating restrictions in air carrier certificates for domestic scheduled service. This amendment states that after January 1, 1981 unrestricted authority will be given only to certificated carriers that have been found fit, willing, and able to operate under the Federal Aviation Act. The rule is at the CAB's own initiative.

**DATES:** Adopted: December 31, 1980; Effective: December 31, 1980; Comments by: February 6, 1981.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: January 22, 1981.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

**ADDRESSES:** Twenty copies of comments should be sent to Docket 38783, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received

**FOR FURTHER INFORMATION CONTACT:** Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board; 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5330.

**SUPPLEMENTARY INFORMATION:** By ER-1139, [44 FR 49188, August 21, 1979], the Board set up a four-phased program in 14 CFR Part 203 to eliminate intermediate stop restrictions in the certificates of air carriers for domestic scheduled service, except for intra-Alaska and intra-Hawaii markets. These restrictions were first lifted in small markets in August 1979, and were removed at regular intervals after that date in progressively larger markets, until all restrictions in all markets will have been eliminated on December 31, 1980. The Board proposed to clarify its rules for this program in EDR-409 [45 FR 66743, October 7, 1980] by stating explicitly that after December 31, 1980, when all remaining stop restrictions will be removed, carriers receiving new authority to a point will automatically have authority to all other points on their certificates.

Part 203 applies to all air carrier certificates issued under section 401 of the Federal Aviation Act. It makes no distinction concerning the type of certificate the carrier has been issued. Carriers issued authority under section 401(d)(1) must be found fit, willing, and able to operate by the Board. However, a finding of initial fitness is not required by this statute for carriers gaining certificates only under section 401(d)(5) (unused authority). Under the first three phases of the restriction removal program, carriers having authority only by means of claiming the dormant authority of another carrier under section 401(d)(5) have been treated the same as carriers certificated under section 401(d)(1). The operating restrictions on their certificates are being removed, thus giving them new, expanded authority without their having been found fit, willing, and able to operate. The same will occur on December 31, 1980, in Phase IV of the program.

In the absence of the restriction removal program, carriers wanting authority beyond that granted through dormant authority would have to file an application with the Board. The route aspect of the application would be handled through show cause procedures. The fitness issue would be handled in a separate proceeding. The added authority would not be granted unless the carrier were found fit. The restriction removal program is not intended to be a by-pass of the fitness requirement of the Act. The seven dormant authority carriers that have not been found fit and that already have received authority under the first three phases of the restriction removal program are undergoing fitness determinations on an expedited basis. Most of them have been found fit and reliable to perform essential air service at one or more specific communities. None of them is operating large jet aircraft.

A serious problem, however, could arise after December 31 of this year, when all restrictions on a carrier's certificate are removed, thus giving it unrestricted authority to all other points on the certificate. For example, new carriers (including new subsidiaries of existing carriers) that have not operated before could use dormant authority to establish significant route systems without being found fit. A carrier could gain a number of routes through dormant authority applications, particularly considering the abundance of new authority given existing carriers by the restriction removal program that will probably not be used. Once the dormant authority is perfected by the new carrier, the restriction removal program would apply, with the result that the carrier would have unrestricted authority between all points on its dormant authority certificate. A carrier therefore, could construct a substantial route system involving large jet aircraft operations without ever having been found fit. This was not the intent of Congress in creating the dormant authority provision in the Act, or the intent of the Board in creating the restriction removal program. Part 203 is therefore being amended to apply only to those carriers that have been found fit, willing, and able by the Board.

In order not to disrupt the ongoing program so close to the effective date of Phase IV, and in view of the urgent need to notify the public and the carriers of this change, the Board finds that there is good cause to make the rule effective immediately. The Board, however, would like to have comment on the amendment, and is therefore allowing 30 days for persons to submit their views on the rule. After the comments, if any, have been reviewed, the Board will either adopt an amendment to the rule or will issue a notice making it final.

The authority citation for Part 203 is being changed to conform with new **Federal Register** format.

Accordingly, the Board amends 14 CFR Part 203, *Removal of Certificate Restrictions*, as follows:

1. The authority for Part 203 is revised to read:

**Authority:** Secs. 102, 204, 401, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754; 49 U.S.C. 1302, 1324, 1371.

2. Paragraph (f) of § 203.3 is amended to read:

**§ 203.3 Timetable of automatic removal of restrictions.**

* * * * *

(f) After December 31, 1980, any route authority granted by the Board to a carrier that has been found fit, willing, and able to provide scheduled passenger air transportation will include nonstop authority to all existing points on the carrier's route system.

By the Civil Aeronautics Board:

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 81-500 Filed 1-6-81; 8:45 am]

BILLING CODE 6320-01-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### 15 CFR Parts 371, 373, 376, 378, 385 and 399

### Extension of Foreign Policy Export Controls

**AGENCY:** International Trade Administration, Office of Export Administration, Commerce.

**ACTION:** Extension of effectiveness of final rules.

**SUMMARY:** As authorized in section 6 of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401, *et seq.*) (hereinafter "the Act") the Secretary of Commerce determined on December 31, 1980, that all export controls maintained for foreign policy purposes should continue beyond December 31, 1980. In addition, there has been one expansion which will be announced in a separate notice.

**DATE:** This rule is effective as of January 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** Daniel E. Cook, Assistant to the Director, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone (202) 377–4159.

**SUPPLEMENTARY INFORMATION:** In a proposed rule published in the **Federal Register** (45 FR 58562, September 4, 1980) the Department sought comments on how controls imposed or extended effective January 1, 1980 and those subsequently imposed had affected exporters and the general public. We received numerous comments, all of which were considered in preparing the final rule.

All current controls are extended beyond December 31, 1980. These include the foreign policy controls imposed or extended effective January 1, 1980 covering international terrorism, regional stability, South Africa and Namibia, human rights, embargoes of communist countries and oil and gas equipment for the Soviet Union. At the same time, the Department announced that nuclear nonproliferation controls continued in effect pursuant to section 17(d) of the Act and section 309(c) of the Nuclear Nonproliferation Act of 1978. For details on these controls, see 45 FR 1595 January 8, 1980, or Export Administration Bulletin (EAB) No. 201 of January 25, 1980. Subsequently, foreign policy controls were imposed on agricultural products to the USSR (45 FR 1883, January 9, 1980 and 45 FR 8289, February 7, 1980, or EAB No. 201, January 25, 1980 and EAB No. 203, February 15, 1980); phosphates to the USSR (45 FR 8293, February 7, 1980, and 45 FR 24458, April 10, 1980 or EAB No. 203, February 15, 1980 and EAB No. 205, June 9, 1980); transactions related to the 1980 Summer Olympics (45 FR 21612, April 2, 1980, or EAB No. 204, April 18, 1980); and truck engine assembly lines for the Soviet Kama River Truck Complex (45 FR 30617, May 9, 1980, or EAB No. 205, June 9, 1980). Controls to combat international terrorism have been expanded (45 FR 33955, May 21, 1980, or EAB No. 205, June 9, 1980), and controls on shipments to the USSR of agricultural products, phosphates, and oil and gas equipment were expanded to encompass Afghanistan (45 FR 37415, June 3, 1980, or EAB No. 205, June 9, 1980).

Foreign policy controls on computers destined for South African and Namibian government consignees are being expanded to apply foreign policy controls to all computers. This expansion is being announced by a separate notice filed concurrently with this notice.

Although certain of the above controls would not normally expire on December 31, 1980, the Department is extending them effective January 1, 1981. A uniform renewal date for all foreign policy controls will increase consistency and assure maximum public interest and participation in the review process.

The public record concerning these comments is maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230. The records may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records within the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration's Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Accordingly, the foreign policy controls are extended as indicated above.

(Secs. 6, and 13, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10–3, 45 FR 6141 (January 25, 1980); International Trade Administration Organization and Function Order 41–1, 45 FR 11862 (February 22, 1980)).

Issued in Washington, D.C. on December 31, 1980.

**Eric L. Hirschhorn,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 80-40852 Filed 12-31-80; 5:47 pm]

BILLING CODE 3510-25-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 240 and 249b

**[Release No. 34–17410]**

### Regulation of Transfer Agents

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Amendment of rule and form.

**SUMMARY:** The Commission is amending its transfer agent registration rule and form. The amendments eliminate the requirement that transfer agents registered with the Commission file annual amendments to Item 7 (which includes Schedule B) of their registration form, Form TA–1. The requirement to file annual amendments is being eliminated in anticipation of a comprehensive revision of Form TA–1, which is expected to be published for comment during 1981.

**EFFECTIVE DATE:** January 8, 1981.

**FOR FURTHER INFORMATION CONTACT:** Pierron R. Leef, Jr., Branch Chief (202) 272–2913, Stuart J. Kaswell, Staff Attorney (202) 272–2904, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Commission today adopted amendments to Rule 17Ac2–1 (17 CFR § 240.17Ac2–1) and related Form TA–1 with attached Schedules A and B (17 CFR § 249b.100) under the Securities Exchange Act of 1934 (the Act) to eliminate the requirement that transfer agents registered with the Commission file annual amendments to Item 7 (which includes Schedule B) of their registration form, Form TA–1.

#### Background

Rule 17Ac2–1 [1] requires a transfer agent for which the Commission is the appropriate regulatory agency to apply for registration with the Commission on, and in accordance with the instructions

[1] The adoption of Rule 17Ac2–1 and Form TA–1 was announced in Securities Exchange Act Release No. 11759 (October 22, 1975), 40 FR 51181 (November 4, 1975). Subsequently the Commission adopted certain non-substantive amendments to Form TA–1. Securities Exchange Act Release No. 14301 (December 21, 1977), 42 FR 65572 (December 30, 1977).

contained in, Form TA–1.[2] Among other things, Rule 17Ac2–1 requires that Item 7 (which includes Schedule B) [3] of Form TA–1 must be updated within thirty days following the close of any calendar year during which the information has become inaccurate, misleading or incomplete.[4]

In reviewing Form TA–1, the Commission determined that a number of the questions on the form may be outdated. In addition, the Commission believes that the cost to transfer agents of collecting the information required by Schedule B and the cost to the Commission in processing that information currently outweigh that information's regulatory benefits. As a result, the staffs of the Commission and the Federal bank regulators have been working on a revision of Form TA–1. Among other things, that revision is expected to replace the detailed information required by Schedule B with questions asking only for aggregate statistical information.

The Commission has determined that it would be inappropriate to require registrants to file updates to Schedule B at the same time that the Commission is considering replacing that schedule with questions calling only for aggregate information. As a result, the Commission has determined to amend paragraph (c) of Rule 17Ac2–1 and Instruction 15 to Form TA–1 to eliminate the requirement that registered transfer agents annually amend Item 7 (which includes Schedule B) of Form TA–1. Transfer agents registered with the Commission should note, however, that the requirement in Rule 17Ac2–1 that they must amend Items 1–6 of Form TA–1 within twenty-one calendar days following the date on which such information becomes inaccurate, misleading or incomplete remains in effect.

[2] The Federal bank regulators (*i.e.*, the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System) have adopted a similar registration rule and an identical registration form for transfer agents required to register with those agencies.

[3] Registrants are rquired to list on Schedule B certain securities for which they perform transfer agent functions, the capacities in which they act for those securities as well as other information.

[4] Rule 17Ac2–1 also requires Items 1–6 of Form TA–1 to be amended twenty-one calendar days following the date on which the information contained in those items becomes inaccurate, misleading or incomplete. Items 1–6 of Form TA–1 request information regarding the registrant's identity and the nature of its transfer agent activities.

*Coordination with the Federal Bank Regulators*

The Commission has conferred with the Federal bank regulators who are adopting, or are considering adopting, similar revisions for transfer agents registered with those agencies.

*Statutory Basis, Competitive Considerations and Effective Date*

The Commission, acting pursuant to Sections 2, 17, 17A, and 23(a) of the Act, 15 U.S.C. 78b, 78q, 78q–1 and 78w(a), hereby adopts amendments to paragraph (c) of Rule 17Ac2–1 (17 CFR § 240.17Ac2–1(c)) and Instruction 15 to Form TA–1 (17 CFR § 249b.100).

In doing so, the Commission finds that eliminating the requirement that transfer agents file annual amendments to Item 7 (which includes Schedule B) of Form TA–1 reduces the reporting burden on transfer agents registered with the Commission. Moreover, unless these amendments become effective immediately, they would become effective after the date by which transfer agents must file annual amendments to Form TA–1. Accordingly, the Commission finds that pursuant to Section 553(b)(B) of the Administrative Procedure Act [5 U.S.C. 553(b)(B)] notice and public procedure are impracticable, unnecessary, and contrary to the public interest in this situation and that in accordance with Section 553(d) of the Administrative Procedure Act [5 U.S.C. 553(d)] good cause exists for making these amendments effective immediately upon publication in the **Federal Register.**

It also appears to the Commission that no burden will be imposed on competition by the adoption of the proposed amendments.

Accordingly, the Commission hereby revises paragraph (c) of § 240.17Ac2–1 of Part 240 and Instruction 15 of § 249b.100 of Part 249 of Title 17 of the Code of Federal Regulations to read as follows:

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

**§ 240.17Ac2–1 Application for registration of transfer agents.**

* * * * *

(c) Within twenty-one calendar days following the date on which any information reported at items 1–6 of Form TA–1 becomes inaccurate, misleading or incomplete, the registrant shall file an amendment on Form TA–1 correcting the inaccurate, misleading or incomplete information.

* * * * *

## PART 249b—FURTHER FORMS, SECURITIES EXCHANGE ACT OF 1934

**§ 249b.100 Form TA–1, uniform form for registration as a transfer agent pursuant to section 17A of the Securities Exchange Act of 1934.**

* * * * *

**III—Instructions Relating to Filing Form TA–1 as an Amendment to a Registration Form**

15. Within twenty-one calendar days following the date on which information reported at items 1–6 of Form TA–1 becomes inaccurate, incomplete or misleading, the registrant shall file an amendment on Form TA–1 correcting the inaccurate, incomplete or misleading information. The information reported at items 7–12 of Form TA–1 need not be amended after registration has become effective.

* * * * *

By the Commission.

**George A. Fitzsimmons,**

*Secretary.*

December 30, 1980.

[FR Doc. 81-462 Filed 1-6-81; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 282

**[Docket No. RM81–1; Order No. 120]**

## Incremental Pricing; Natural Gas Users in Rhode Island

Issued: December 30, 1980.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts revised alternative fuel price ceilings applicable to incrementally priced natural gas users in Rhode Island for the months of May through September 1980. The ceilings are revised to correct an error in data submitted to the Energy Information Administration by oil suppliers in Rhode Island. These corrected prices were first published in an interim rule issued in this docket on October 3, 1980 (45 FR 68389, October 15, 1980). Section 282.404(a) of the Commission's regulations is amended to provide corrected alternative fuel price ceilings for Rhode Island for the months of May through September 1980 in place of the alternative fuel price ceilings previously published by the Energy Information Administration of the Department of Energy.

**EFFECTIVE DATE:** January 29, 1981.

**FOR FURTHER INFORMATION CONTACT:** Barbara Christin, 202–357–8033, or

Leslie Lawner, 202-357-8299

**SUPPLEMENTARY INFORMATION:** In the matter of rule adopting revised alternative fuel price ceilings for the State of Rhode Island: Final rule.

**I. Introduction**

The Federal Energy Regulatory Commission (Commission) is adopting, as a final rule, an interim rule that corrected the alternative fuel price ceilings applicable to incrementally priced natural gas users in the State of Rhode Island for the months of May through September 1980. The interim rule (issued October 3, 1980, 45 FR 68389, October 15, 1980) amended § 282.404(a) to provide that the alternative fuel price ceilings for Rhode Island for the months of May through September 1980 are the ceilings set forth in § 282.404(a)(2), rather that the ceilings previously published by the Energy Information Administration (EIA) of the Department of Energy.

**II. Background and Discussion**

Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432) requires the Commission to prescribe and make effective a program of incremental pricing of natural gas used as industrial boiler fuel. Section 204(e) of the NGPA directs the Commission to establish ceilings on prices charged to incrementally priced users, based on the cost of alternative fuel oils in each region designated by the Commission.

Under the Commission's incremental pricing regulations, ceiling prices for each month are based on the observed price of high-sulfur No. 6 fuel oil in each of the 48 contiguous states. These ceiling prices are published in the **Federal Register** on, or before, the twentieth day of the month preceding their effective date. The collection of data, the calculation of the price ceilings, and the publication of these ceilings are performed by the EIA, in accordance with its statutory responsibilities. [Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Department of Energy Delegation Order No. 0204-3, October 1, 1977.)

For the months of May through September 1980, the alternative fuel price ceilings were calculated erroneously, due to an error in the data submitted to the EIA by an oil supplier in the State of Rhode Island. Upon learning of the error, the Commission asked the EIA to recompute the alternative fuel price ceilings for all states for May through September 1980, using the corrected data. The recalculated figures indicated, that with respect to the 47 contiguous states other than Rhode Island, there was either no difference between the revised ceilings and the published ceilings, or the revised ceilings were only slightly higher than the published ceilings. However, the revised ceilings for Rhode Island were significantly lower than the published ceilings.

On the basis of this information, the Commission issued the interim rule on October 3, 1980, amending § 282.404 of the Commission's regulations to provide that the revised alternative fuel price ceilings for Rhode Island, for May through September 1980, supersede the ceilings that were previously published by the EIA. In view of the small or non-existent difference between the published and the revised ceilings for the other 47 contiguous states, the Commission did not revise the ceiling prices for those states, finding that any benefits would be outweighed by the administrative burden such revisions would impose upon pipelines, distribution companies, and end-users.

The interim rule did not provide for the refund of surcharges in Rhode Island, because no surcharges had been collected from the affected end-users. The Providence Gas Company, which serves all the non-exempt customers in the State, had notified its customers of these surcharges, but had not collected them prior to issuance of the interim rule. Therefore, Providence Gas had only to recalculate and submit revised bills to its customers.

In the interim rule, the Commission found good cause, in accordance with 5 U.S.C. 553(b) and (d), to waive the normal notice and comment procedures as well as the thirty day publication requirement. Accordingly, the rule was effective upon issuance. However, the Commission requested written comments and afforded the opportunity for a public hearing on the interim rule. No person submitted comments or requested that a hearing be held.

For the reasons discussed in the interim rule and summarized above, the Commission is adopting the interim rule as a final rule.

**II. Effective Date**

The final rule set forth below is effective on January 29, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

In consideration of the foregoing, the Commission amends Part 282, Subchapter I, Chapter I, Title 18 of the *Code of Federal Regulations* as set forth below, effective January 29, 1981.

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

Section 282.404 paragraph (a) is amended to read as follows:

**§ 282.404 Alternative fuel price ceilings.**

(a) *General rule.* On or before the twentieth day of each month, in accordance with the provisions of § 282.402 and paragraph (b) of this section, alternative fuel price ceilings shall be published for each incremental pricing region as set forth in paragraph (c) of this section. Such ceilings shall be effective for purposes of this part for the month following the month of publication, *provided that:*

(1) for the month of April 1980, the following ceilings shall be effective and shall supersede those ceilings published on March 20, 1980: * * *

(2) for the months of May through September 1980, the following ceilings shall be effective for the State of Rhode Island and shall supersede those ceilings previously published:

| Month | Dollars per million Btu's |
|---|---|
| May | 3.06 |
| June | 2.85 |
| July | 2.72 |
| August | 2.84 |
| September | 3.09 |

* * * * *

[FR Doc. 81-544 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### 19 CFR Part 353

### Anhydrous Sodium Metasilicate From France; Antidumping Duty Order

**AGENCY:** U.S Commerce Department, International Trade Administration.

**ACTION:** Antidumping duty order.

**SUMMARY:** In separate investigations the U.S. Department of Commerce (the Department) and the U.S. International Trade Commission (ITC) have determined that anhydrous sodium metasilicate from France is being sold at less than fair value and that these sales threaten to materially injure a U.S. industry. Therefore, all entries or warehouse withdrawals for consumption of this merchandise that are made on and after January 2, 1981, the date on which the International Trade Commission published its final determination of threat of injury in the

**Federal Register**, will be liable for the possible assessment of special dumping duties. Cash deposits of estimated antidumping duties shall be required of all entries and withdrawals from warehouse for consumption made on and after the date of publication of this antidumping duty order in the **Federal Register**.

**EFFECTIVE DATE:** January 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** Steve Garment, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Telepnone: (202–377–1756).

**SUPPLEMENTARY INFORMATION:** In accordance with section 733 of the Tariff Act of 1930, as amended (The Act) (19 U.S.C. 1673b), on September 5, 1980, the Department preliminarily determined that anhydrous sodium metasilicate from France is being sold at less than fair value (45 Fed. Reg. 58929). On November 24, 1980, the Department reached the same decision in a final determination (45 Fed. Reg. 77498–9).

Similarly, in accordance with section 735(b) of The Act (19 U.S.C. 1673d(b)), the U.S. International Trade Commission determined, and notified the Department, that such importations are threatening a U.S. industry with material injury.

Therefore, in accordance with section 736 of The Act (19 U.S.C. 1673e), U.S. Customs officers are directed to assess antidumping duties equal to the amount by which the foreigh market value of the merchandise exceeds the U.S. price of the merchandise. These antidumping duties will be assessed on all of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 2, 1981, the date on which the ITC published its final determination of threat of material injury in the **Federal Register**.

On and after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers deposit their estimated normal Customs duties on the merchandise, an additional deposit of estimated antidumping duties equal to 60 percent *ad valorem* of the F.O.B. value of the merchandise.

These estimated antidumping duties will remain on deposit pending final liquidation of the entries. Liquidation of these entries will remain suspended pending further instructions from the Department.

In accordance with section 736(b)(2) of The Act (19 U.S.C. 1673e(b)(2)), the Customs Services is directed to release any bond or other security and refund any cash deposit made to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before January 2, 1981. The suspension of liquidation of that merchandise entered, or withdrawn from warehouse, for consumption before January 2, 1981 is rescinded.

I hereby make public these determinations, which constitute an antidumping duty order with respect to anhydrous sodium metasilicate from France.

For the purpose of this notice, the term "anhydrous sodium metasilicate" is a crystalline silicate ($NA_2 SiO_3$) currently classifiable in item 421.3400, Tariff Schedules of the United States, Annotated.

**Annex 1 [Amended]**

Accordingly, Annex 1, Part 353 of the Commerce Regulations (19 CFR Part 353, 45 FR 8208) is being amended by adding the following to the list of antidumping duty orders currently in effect:

| Merchandise | Country | Treasury decision |
|---|---|---|
| Anhydrous sodium metasilicate | France | (45 FR ) |

This notice is published in accordance with section 736 of The Act (19 U.S.C. 1673e) and Section 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

**John D. Greenwald,**

*Deputy Assistant Secretary for Import Administration.*

December 31, 1980.

[FR Doc. 81-448 Filed 1-6-81; 8:45 am]

**BILLING CODE 3510-25-M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### 25 CFR Part 52

### Tribes Organized Under Section 16 of the Indian Reorganization Act and Other Organized Tribes; Procedures for Reorganizing, Amending, or Revoking Constitutions and for Ratifying Charters of Incorporation

December 29, 1980.

**AGENCY:** Bureau of Indian Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Bureau revises Part 52 to Subchapter G, Chapter 1 of Title 25 of the Code of Federal Regulations. The purpose of the revision is to establish regulations to: (a) extend to tribes in Oklahoma and to Alaska Native entities published procedures for reorganizing under Federal Statute previously available only to reservation based tribes under the Indian Reorganization Act; (b) revoke a constitution adopted under Federal Statute; and (c) correct demonstrated weaknesses and clarify what has proven confusing language in existing regulations. A single set of regulations in this area will facilitate the conducting of Secretarial elections by Bureau employees who previously had to be familiar not only with the regulations in this part, but with differing, unpublished regulations that have governed Secretarial elections in Oklahoma and Alaska.

**EFFECTIVE DATE:** February 6, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Farring, Division of Tribal Government Services, Branch of Tribal Relations, Bureau of Indian Affairs, 18th and C Streets, NW., Washington, D.C. 20245, (202) 343–2511.

**SUPPLEMENTARY INFORMATION:** The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

A proposed revision of 25 CFR Part 52 was published in the **Federal Register** on pages 40345 through 40349 on July 10, 1979, and comments were invited. Many were received from a representative number of Indian tribes and groups tribal attorneys, and other interested parties throughout the United States. Commentators universally agreed that the regulations be expanded to include Alaska and Oklahoma. Many constructive suggestions to clarify the intent of the regulations have been incorporated in the final rule.

The revision establishes regulations which: (a) extend to tribes in Oklahoma and to Alaska Native entities procedures for their reorganization. These procedures were previously available only to reservation-based tribes under the Indian Reorganization Act.

(b) provide procedures to revoke a constitution adopted under Federal Statute.

(c) provide for clearly worded language (demonstrated weaknesses were corrected and confusing language was clarified).

(d) provide for ratification of corporate charters issued to an Indian tribe.

A single set of regulations in this area will facilitate the conducting of

Secretarial elections by Bureau employees who previously had to be familiar not only with the regulations in this part but with differing, unpublished regulations that have governed Secretarial elections in Oklahoma and Alaska.

These regulations, in part, provide procedures for the reorganization of tribes and the amendment of the constitutions of recognized tribes in accordance with three Federal Statutes. Each statute relates to a different geographical area: Oklahoma, Alaska, and the remainder of the United States. Where, due to the general nature of the regulations, a discrepancy might appear to exist between the regulations and a specific requirement of the statute governing the reorganization of a tribe, the regulations shall be interpreted to conform with the statute.

The regulations are applicable to tribes that have not voted to reject the Indian Reorganization Act. As a result, some of those commenting expressed the concern that certain tribes, particularly those in Alaska and Oklahoma, would be ineligible for reorganization under these regulations. However, the tribes in Oklahoma and Alaska were not provided an opportunity to reject the Indian Reorganization Act, and the statutory period for voting to reject the Indian Reorganization Act has long since expired. Accordingly, no impediment exists to the Secretary applying these regulations to those tribes which, prior to the end of the statutory period, did not reject the Indian Reorganization Act and who may wish to reorganize pursuant to a Federal Statute.

The Alaska Native Claims Settlement Act of 1971 has no direct impact upon the statutory provisions governing the reorganization of the Indian tribes in Alaska. Its definitions of a Native village and membership requirements for purposes of its provisions should neither be read to supersede those in the statutes that provide specifically for reorganization nor as modifying any of the provisions in the latter statutes upon which the reorganization of Alaska villages must be based.

The classification of an "Unorganized Tribe" has been dropped from the final rule. We agree with the widely held view that continued use of the classification could be misunderstood and act to the detriment of certain tribes. The final rule speaks only in terms of "reorganization" for those entities that now may be organized outside of a Federal Statute.

It was not the intent of the proposed regulations to grant a unilateral power to the Secretary to authorize elections in a manner other than as provided in a tribe's constitution or charter. The final rule has been modified to clarify this point. The Secretary can call an election other than as provided for in a tribal constitution only in those rare instances where the passage of time has made the amendment provisions of the constitution or charter of a reorganized tribe inoperative and the tribal government has initiated the request.

Lack of familiarity with the requirement to register in order to vote in Secretarial elections elicited some Alaskan comment that it should be dropped as unduly burdensome. Similar concern was expressed by parties in the contiguous forty-eight states when the need for registration was initially introduced into the regulations in 1967. The practice has proven its value and is now widely accepted. We believe that the Alaska Natives and Bureau of Indian Affairs staff will with time also realize the advantages of registration.

Since voter registration was first included in Part 52 during the 1960's, the regulations in Part 53 have provided that the registration list would remain effective for a three-year period. This was intended for use in any further Secretarial elections scheduled for that period. The list was also for the purpose of determining whether the required percentage of voters had signed a petition under Part 53 requesting the Secretary to take certain actions. Because information concerning eligible voters is now generally available from computerized sources, and since there has been confusion surrounding the use of such a list following its initial purpose, the three-year period has been eliminated from the final rule. Henceforth, the voter registration list will be effective only for the Secretarial election for which it was assembled, and the sufficiency of a petition will be based on the number of persons who are eligible to register for voting in a Secretarial election.

A major consideration of the proposed regulations was that of the opportunity for individual tribal members to petition the Secretary regarding reorganization. Existing regulations allow for petitioning. Upon receipt of a petition signed by at least one-third of the adult members of a tribe the Secretary will authorize an election. Aware that virtually all of the Indian entities recognized today by the Secretary that might wish to reorganize have a tribal government, it was proposed to abandon the petitioning process and provide that the Secretary honor only requests for reorganization from tribal governments.

Comments on this proposal were extensive. Support for the new concept was mixed. In an effort to insure that the petitioning process not become a means to harass established tribal governments—a concern advanced to terminate the practice—at least 60 percent rather than one-third of the adult members must sign any petition requesting reorganization of a tribe if the petition is to be considered valid. It is likely that should 60 percent of a tribe's adult members support reorganization, the existing tribal leadership would be hard pressed to oppose it. If a tribal government is aware that such a strong current runs through the tribe, it will likely initiate reorganization before the adult members will consider implementing the petitioning process. If not, the Secretary would be on firm ground to act upon a request from at least 60 percent of the tribe's adult members. The right of individuals to control collectively their destiny can not be ignored in the light of congressional intent to enable tribal reorganization. We strongly believe the fairest and most practical approach is that taken in the regulations. Accordingly, a limited right to petition has been continued.

To remove the concern of those Indians seeking Federal acknowledgment as an Indian tribe, any entity that might in the future become recognized as eligible for Federal benefits would at that time also become eligible to be listed in the **Federal Register** pursuant to 25 CFR 54.6 (b). Such a tribe could initiate without delay its reorganization pursuant to Federal Statute; provided, that if it is located outside of either Alaska or Oklahoma, a reservation has been established for it.

An additional 30 days is allowed Alaska villages to give notice of Secretarial elections because of the communication and transportation delays common in the remote regions of Alaska.

Requests were made that the Secretary be limited in the time taken to review proposed constitutional actions and to authorize elections. This request was carefully considered. The Secretary, however, because of staffing problems and shifting priorities, can not agree to rigid deadlines in these matters. However, the Secretary will attempt to expedite constitutional review and responses to election requests.

Finally, due to the likelihood that a more meaningful ballot would be cast, the rule now allows interpreters to accompany voters into the voting booth when the voter so requests.

The definitions are an integral part of the regulations and should be carefully read as such.

The principal author of this document is Leslie N. Gay, Jr., of the Division of Tribal Government Services, Bureau of Indian Affairs.

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.

Part 52 of Subchapter G of Chapter 1 of Title 25 of the Code of Federal Regulations is revised to read as follows:

## PART 52—TRIBAL REORGANIZATION UNDER A FEDERAL STATUTE

Sec.

52.1 Definitions.
52.2 Purpose and scope.
52.3 Group eligibility.
52.4 Assistance from the Department of the Interior.
52.5 Request to call election.
52.6 Entitlement to vote.
52.7 Adoption, ratification or revocation by majority vote.
52.8 Election Board.
52.9 Voting Districts.
52.10 District Election Boards.
52.11 Registration.
52.12 Voting list.
52.13 Eligibility disputes.
52.14 Election notices.
52.15 Opening and closing of polls.
52.16 Interpreters.
52.17 Electioneering.
52.18 Manner of voting.
52.19 Absentee Voting.
52.20 Ballots.
52.21 Counting of ballots.
52.22 Contesting of election results.
52.23 Posting and certifying election results.
52.24 Approval, disapproval or rejection action.

**Authority:** 25 U.S.C. 473a, 476, 477, and 503.

### § 52.1 Definitions.

As used in this part: (a) "Adult Indian" means any Indian as defined in paragraph (i) of this section who has attained the age of 18 years.

(b) "Amendment" means any modification, change, or total revision of a constitution or charter.

(c) "Authorizing Officer" means the Bureau of Indian Affairs official having authority to authorize the calling of a Secretarial election.

(d) "Cast ballot" means an official ballot that is cast in the proper manner at the proper time by a duly registered voter. A ballot is cast by duly placing it in the ballot box or, in the case of absentee voting, when the ballot is duly received through the mail by the election board.

(e) "Charter" means the charter of incorporation the Secretary may issue to a reorganized tribe pursuant to Federal Statute.

(f) "Commissioner" means the Commissioner of Indian Affairs or his/her authorized representative.

(g) "Constitution" or "Constitution and Bylaws" means the written organizational framework of any tribe reorganized pursuant to a Federal Statute for the exercise of governmental powers.

(h) "Federal Statute" means one of the following: (1) the Act of June 18, 1934, 48 Stat. 984, as amended (Indian Reorganization Act); (2) the Act of June 26, 1936, 49 Stat. 1967 (Oklahoma Indian Welfare Act); or (3) the Act of May 1, 1936, 49 Stat. 1250 (Alaska Native Reorganization Act).

(i) "Indian" means: (1) all persons who are members of those tribes listed or eligible to be listed in the **Federal Register** pursuant to 25 CFR 54.6(b) as recognized by and receiving services from the Bureau of Indian Affairs; provided, that the tribes have not voted to exclude themselves from the Act of June 18, 1934, 43 Stat. 984, as amended; and (2) any person not a member of one of the listed or eligible to be listed tribes who possesses at least one-half degree of Indian blood.

(j) "Invalid ballot" means an official cast ballot discovered at the time the votes are counted which does not comply with the requirements for voting or is not an official ballot. An invalid ballot is not to be counted for determining the number of cast ballots.

(k) "Member" means any Indian who is duly enrolled in a tribe who meets a tribe's written criteria for membership or who is recognized as belonging to a tribe by the local Indians comprising the tribe.

(l) "Mutilated ballot" means an official ballot that has been damaged to the extent that it is not possible to determine the choice the voter intended to make. There are two kinds of mutilated official ballots: (1) A ballot that is mutilated and not cast. In this case, the mutilated ballot may be exchanged for a new one. If the need arises to exchange a mutilated absentee ballot, no additional time will be provided for the new ballot to be received by the election board.

(2) A ballot that is mutilated and cast. A mutilated cast ballot is to be counted in the same manner as a spoiled cast ballot.

(m) "Officer in Charge" means the Superintendent, Administrative Officer, or other official of the local unit of the Bureau of Indian Affairs (or a Bureau employee that such person might designate) having administrative jurisdiction over a tribe.

(n) "Official ballot" means a ballot prepared by the Bureau of Indian Affairs for use in an election pursuant to this part. It is possible that an official ballot may be found to be either spoiled or mutilated at the time the votes are counted.

(o) "Registration" means the act whereby persons, who are eligible to vote, become entitled or qualified to cast ballots by having their names placed on the list of persons who will be permitted to vote.

(p) "Reorganized tribe" means a tribe whose members have adopted a constitution pursuant to a Federal Statute.

(q) "Reservation" means any area established by treaty, Congressional Act, Executive Order, or otherwise for the use or occupancy of Indians.

(r) "Revocation" means that act whereby the adult members of a tribe vote to abandon their constitutional form of government as opposed to their voting to amend or totally revise it.

(s) "Secretarial election" means an election held within a tribe pursuant to regulations prescribed by the Secretary as authorized by Federal Statute (as distinguished from *tribal* elections which are conducted under tribal authority. (See *Cheyenne River Sioux Tribe* v. *Andrus*, 566 F. 2d 1085 (8th Cir., 1977), *cert. denied* 439 U.S. 820 (1978)).

(t) "Secretary" means the Secretary of the Interior or his/her authorized representative.

(u) "Spoiled ballot" means an official ballot that has been marked in such a way that it is not possible to determine the intent of the voter, a ballot that has not been marked at all, or one that has been marked so as to violate the secrecy of the ballot. There are two kinds of spoiled official ballots: (1) A ballot that is spoiled and not cast. In this case, the spoiled ballot may be exchanged for a new one. If the need arises to exchange a spoiled absentee ballot, no additional time will be provided for the new ballot to be received by the election board.

(2) A ballot that is spoiled and cast. A spoiled cast ballot is to be counted in tabulating the total votes cast in conjunction with determining whether the required percentage of the qualified voters has participated in the election.

(v) "Tribal government" means that entity established pursuant to a tribal constitution as empowered to speak for the tribe or in the absence thereof any group or individual that is recognized by the tribal members as empowered to speak for the tribe.

(w) "Tribe" means: (1) any Indian entity that has not voted to exclude itself from the Indian Reorganization Act and is included, or is eligible to be included, among those tribes, bands, pueblos, groups, communities, or Alaska

Native entities listed in the **Federal Register** pursuant to § 54.6(b) of this chapter as recognized and receiving services from the Bureau of Indian Affairs; and (2) any group of Indians whose members each have at least one-half degree of Indian blood for whom a reservation is established and who each reside on that reservation. Such tribes may consist of any consolidation of one or more tribes or parts of tribes.

(x) "Voting district" means a geographical area established to facilitate a tribal election process.

**§ 52.2 Purpose and scope.**

(a) The purpose of this part is to provide uniformity and order in: (1) Holding Secretarial elections for voting on proposed constitutions when tribes wish to reorganize,

(2) Adopting constitutional amendments,

(3) Ratifying and amending charters,

(4) Revoking constitutions, and

(5) Facilitating the calling of such elections by the Secretary under provisions of a Federal Statute.

(b) This part may also be used as a guideline by tribes wishing to hold constitutional elections that are not held pursuant to a Federal Statute.

(c) Where a discrepency might appear to exist between these regulations and a specific requirement of the statute governing the reorganization of a tribe or ratification and amendment of charters, the regulations shall be interpreted to conform with the statute.

(d) As much as possible, Secretarial elections shall be scheduled so as to avoid their being held at the same time as *tribal* elections in order to avoid the confusion that results from different requirements for each kind of election.

**§ 52.3 Group eligibility.**

(a) No tribe which has voted to exclude itself from the provisions of the Indian Reorganization Act, or is otherwise precluded by law, may be reorganized under a Federal Statute. Tribes wishing to reorganize or a reorganized tribe seeking to amend its constitution and bylaws or wishing to vote to revoke such document shall do so under the regulations in this part.

(b) Charters issued to reorganized tribes shall be ratified or amended under the regulations in this part.

**52.4 Assistance from the Department of the Interior.**

Representatives of the Department of the Interior will cooperate with and offer advice and assistance (including the proposing of amendments), to any tribe in drafting a constitution and bylaws, an amendment, a charter or charter amendment, or in revocation of constitutions. Any payments that might be necessary to non-Bureau staff assisting in the conduct of the election shall be made from tribal funds.

**§ 52.5 Request to call election.**

(a) The Secretary shall authorize the calling of an election to adopt a constitution and bylaws or to revoke a constitution and bylaws, upon a request from the tribal government.

(b) The Secretary shall authorize the calling of an election to adopt a constitution and bylaws pursuant to a Federal Statute upon receipt of a petition bearing the signatures of at least 60 percent of the tribe's adult members.

(c) The Secretary shall authorize the calling of an election to ratify a charter at the time the charter is issued, but he/she may issue a charter to a reservation-based tribe only upon petition by at least one-third of the adult members of the tribe. No ratification, however, shall be valid unless the tribe has a constitution adopted and approved pursuant to the relevant Federal Statute.

(d) The Secretary shall authorize the calling of an election on the adoption of amendments to a constitution and bylaws or a charter when requested pursuant to the amendment article of those documents. The election shall be conducted as prescribed in this part unless the amendment article of the constitution and bylaws or the charter provides otherwise, in which case the provisions of those documents shall rule where applicable.

(e) If the amendment provisions of a tribal constitution or charter have become outdated and amendment can not be effected pursuant to them, the Secretary may authorize an election under this part to amend the documents when the recognized tribal government so requests.

(f) Any authorization not acted upon within 90 days (tribes in Alaska shall be granted 120 days) from the date of issuance will be considered void. Notification of the election date as provided for in § 52.14 shall constitute the action envisioned in this section. Extension of an authorization may be granted upon a valid and reasonable request from the election board. Copies of authorizations shall be furnished the requesting tribe or petitioners.

(g) In those instances where conflicting proposals to amend a single constitutional or charter provision are submitted, that proposal first received by the officer in charge, if found valid, shall be placed before the voters before any consideration is given other proposals. Other proposals shall be considered in order of their receipt; provided, they are resubmitted following final action on the initial submission. This procedure shall also apply in those instances where new or revised constitutions are at issue.

**§ 52.6 Entitlement to vote.**

(a) If the group is a tribe, or tribes, of a reservation and is acting to effect reorganization under a Federal Statute for the first time: (1) Any duly registered adult member regardless of residence shall be entitled to vote on the adoption of a constitution and bylaws.

(2) Duly registered adult nonresident members and ill or physically disabled registered adult resident members may vote by absentee ballot (see § 52.19).

(b) If the group is composed of the adult Indian residents of a reservation: (1) Any adult duly registered member physically residing on the reservation shall be entitled to vote.

(2) Absentee voting shall be permitted only for duly registered residents temporarily absent from the reservation, ill, or physically disabled.

(c) If the group is a tribe, or tribes, without a reservation as defined in this part, any duly registered member shall be entitled to vote on the adoption of a constitution and bylaws by either arriving at a polling place or by requesting, properly completing, and timely casting an absentee ballot as determined by the election board pursuant to the relevant Federal Statute; provided, that outside of Alaska and Oklahoma, a reservation shall be established for the tribe before it becomes entitled to vote on the adoption of a constitution.

(d) For a reorganized tribe to amend its constitution and bylaws, only members who have duly registered shall be entitled to vote; provided, that registration is open to the same class of voters that was entitled to vote in the Secretarial election that effected its reorganization, unless the amendment article of the existing constitution provides otherwise.

(e) For a reorganized tribe to revoke its constitution and bylaws, only members who have duly registered shall be entitled to vote; provided, that registration is open to the same class of voters as was entitled to vote in the Secretarial election that effected its reorganization, unless the amendment article of the existing constitution provides otherwise.

(f) For a reorganized tribe to ratify a charter or to adopt a charter amendment, any adult member who has duly registered shall be entitled to vote, provided that if the tribe is of a reservation, only duly registered

members physically residing on the reservation shall be entitled to vote.

**§ 52.7 Adoption, ratification, or revocation by majority vote.**

Except as it may be further limited by this part, a contitution and bylaws, amendments thereto, or charter and charter amendments shall be considered adopted, ratified, or revoked if a majority of those actually voting are in favor of adoption, ratification, or revocation. The total vote cast, however, must be at least 30 percent of those entitled to vote, unless, with regard to amendments, the constitution provides otherwise. The names of persons appearing on the registration list who have not reached eighteen years of age by the date of the election, shall be removed from the list of registered voters when determining whether the required percentage of participation has been achieved. Unless the existing constitution or charter provides otherwise, none of the actions cited in this section shall become effective until they are approved by the Secretary. The validity of any charter ratification shall be dependent upon the tribe first having reorganized. Duly ratified charters shall be revoked or surrendered only by Act of Congress.

**§ 52.8 Election Board.**

(a) There shall be an election board consisting of the officer in charge acting as chairman and at least two representatives of the tribal governing body or an authorized representative committee. Where such persons may be unwilling or unable to serve, the chairman shall select at least two adult members of the tribe to serve. In addition, the officer in charge may appoint an interpreter and as many clerks and poll watchers as he/she deems necessary, but they shall not be members of the board.

(b) It shall be the duty of the board to conduct elections in compliance with the procedures described in this part and in particular: (1) to see that the name of each person offering to vote is on the official list of registered voters; (2) to keep the ballot boxes locked at all times except when ballots are being counted; (3) to see that ballots are cast only by registered voters and that the voting list is checked to indicate this; (4) to begin to count the regularly cast ballots immediately after the close of the polls and then the absentee ballots, pursuant to § 52.21; (5) to post and certify the election returns; (6) to return the following to the officer in charge: (i) the ballots (in marked and locked boxes); (ii) all unused ballots; and (iii) the completed Certificate of Results of Election. The officer in charge shall retain the ballots and other material among official records for at least one year. At the end of one year, the officer in charge shall forward the contents of the boxes and other related material to the appropriate Federal Records Center.

**§ 52.9 Voting districts.**

If: (a) voting districts have not already been designated for tribal elections in the tribal constitution or by tribal election ordinance or resolution; and (b) in the election board's judgment voting districts are needed, the board shall establish them and designate a polling place for each district. Where a reservation exists, no voting district may be established beyond its boundaries.

**§ 52.10 District Election Boards.**

(a) Where voting districts have been established by the tribal constitution, ordinance, resolution, or by the election board, the election board shall appoint district election boards for each district, which shall have the duties prescribed above for the election board except that they shall return to the election board: (1) the ballots (in marked and locked boxes), (2) all unused ballots, and (3) their certifications of the district election results on the certification forms prescribed by the election board.

(b) The board will compile the election results for the entire reservation and transmit them together with the aforementioned ballots and ballot boxes to the officer in charge.

**§ 52.11 Registration.**

(a) Only registered voters will be entitled to vote, and all determinations of the sufficiency of the number of ballots cast will be based upon the number of registered voters. The election board, upon receipt of authorization to conduct an election, shall notify by regular mail all adult members of the tribe, who to its knowledge are eligible to vote pursuant to § 52.6, of the need to register if they intend to vote. Any tribal member who, to the election board's knowledge, will become 18 years of age within 150 days (180 days for Alaska tribes) from the date of authorization and who is otherwise eligible to vote shall also be notified and shall be eligible to register; provided that such a person shall not be entitled to vote if election day falls before the individual's 18th birthday. This notice shall be sent to an individual's last known address as it appears on the records of the local unit of the Bureau of Indian Affairs having jurisdiction. Each notice addressed to a tribal member not residing on the reservation shall be accompanied by a preaddressed registration form which provides space for at least: (1) the name and address of the person desiring to register; and (2) a statement attesting that the individual is a tribal member and is 18 years of age or over, or will be within 150 days (180 days for Alaska tribes) from the date of authorization. Members who qualify as absentee voters and wish to cast an absentee ballot must complete and return the registration form before or in conjunction with requesting an absentee ballot in sufficient time to permit compliance with § 52.12.

(b) The following records shall be kept for all notices: (1) names and addresses of persons to whom notices are mailed; (2) date of mailing; and (3) a copy of each return registration request (including from whom received and date and time of receipt). Tribal members living on the reservation who desire to vote must register with the election board in the manner it determines in time to permit compliance with § 52.12. Registration procedures for such Indians shall be included in the notice of the need to register to resident members.

**§ 52.12 Voting list.**

The election board shall compile in alphabetical order an official list of registered voters arranged by voting districts, if any. This list shall designate, where applicable, those who have requested an absentee ballot and the members of the tribe who are or will have attained the age of 18 years within 150 days (180 days for Alaska tribes) from the date an election is authorized and who have duly registered to vote. A copy of this list shall be supplied to any district election board and shall be posted at the headquarters of the local administrative unit of the Bureau of Indian Affairs, the tribal headquarters, and at various other public places designated by the election board at least 20 days prior to the election.

**§ 52.13 Eligibility disputes.**

The election board shall determine the eligibility of any written claim to vote presented to it by one whose name does not appear on the official list of registered voters as well as any written challenge of the right to vote of anyone whose name is on the list. Its decision shall be final. It shall rule on all claims no later than ten days before the election. Any claim not presented at least ten days before the election shall be disallowed. Nonresident claimants successfully appealing omission from the list shall immediately be furnished an absentee ballot. Omission of names from the voters list due to late registration, if notification (pursuant to

§ 52.14) has been timely mailed, shall not be considered grounds for challenge.

**§ 52.14 Election notices.**

Not less than 30 nor more than 60 days notice shall be given of the date of the election. Such notice shall include the location of where the results will be posted. The notice shall also advise that persons must register if they intend to vote. The election board shall determine whether the notice will be given by television, radio, newspaper, poster, or mail, or by more than one of these methods and whether in an Indian language in addition to English. A copy of any written election notice may be mailed to each registered voter and shall be posted at the local administrative unit of the Bureau of Indian Affairs and elsewhere as directed by the election board. At any time after receiving Secretarial authorization to hold the election, the board shall make available to the adult members of the tribe the text of any amendment or proposed constitution and bylaws, amendment thereto, charter, or charter amendment. The election board may determine the manner and timing of the distribution. However, the text shall be posted at least within the local administrative unit of the Bureau and the tribal headquarters within two days following the giving of notice of the election date by the election board.

**§ 52.15 Opening and closing of polls.**

If polling places are established, the polls shall remain open from 8 a.m. to 7 p.m., local time, unless different hours are set by the election board and the voters are informed of this in the election notice.

**§ 52.16 Interpreters.**

Interpreters, where needed, may be provided to explain the manner of voting to any voter who asks for instructions; provided, that all reasonable precautions are taken to ensure that the interpreter does not influence the voter in casting the ballot. The interpreter may accompany the voter into the booth upon the latter's request.

**§ 52.17 Electioneering.**

There shall be no electioneering during voting hours within 50 feet of any voting place. Sample ballots will be permitted in the voting booth.

**§ 52.18 Manner of voting.**

(a) Registered voters may vote by arriving at the appropriate polling place within the prescribed voting hours telling officials their names and addresses, signing their signature or mark on the voting list, and by marking and placing in the ballot box the ballots which will be handed to them. Voting shall be by secret ballot.

(b) Voting may take place at the same time regarding the adoption of a constitution, the ratification of a charter, or the amendment of such documents; provided, that entitlement to vote for the proposal is consistent with § 52.6 of this part and, provided further, that no charter shall be considered ratified if the proposed constitution is not adopted and approved.

(c) The election board may choose not to use polling places and provide for the issuance and receipt of ballots entirely through the the United States Postal Service. In that event, the election board shall use the appropriate procedures set forth in this part relating to absentee balloting.

**§ 52.19 Absentee voting.**

(a) Nonresident members who have registered may vote by absentee ballot except as prohibited by § 52.6. Also, whenever, due to temporary absence from the reservation, illness, or physical disability, a registered and otherwise eligible voter is not able to vote at the polls and notifies the election board, the voter shall be entitled to vote by absentee ballot. Upon his or her request, the election board shall give or mail absentee ballots to registered voters who may be entitled to receive them pursuant to § 52.6. At the same time, such voters will also be provided a copy of the proposal to be voted upon when the full text does not appear on the ballot. Appropriate records shall be kept of those from whom requests are received and the date they were received. The election board shall allow an absentee voter no less than ten days from the mailing out of an absentee ballot to receive and return the ballot. This period shall not be afforded absentee voters desiring to exchange a mutilated or spoiled ballot less than ten days before the election date. While requests for absentee ballots received less than ten days before an election will be promptly honored, no absentee ballot will be counted if received later than either the close of the polls or after some other deadline established by the election board. The election board shall furnish election officials the names of individuals who have been given or had mailed to them an absentee ballot.

(b) Accompanying the absentee ballot shall be: (1) an inner envelope bearing on the outside, the words "Absentee Ballot," (2) instructions for completion of the absentee ballot, (3) a copy of the proposed amendment, and (4) a preaddressed outer envelope, imprinted on the back with a certificate as follows:

I, (name of voter), hereby certify that I am a qualified voter of the (name) Tribe of Indians; that I will be 18 years of age or over at the election date and am entitled to vote in the election to be held on (date of election); and that I cannot appear at the polling place on the reservation on the date of the election because (indicate one of the following reasons): I am a non resident voter ☐; or I expect to be temporarily absent from the reservation ☐; or because of illness ☐; or physical disability ☐; or because no polling place has been established ☐. I further certify that I marked the enclosed ballot in secret.

Signed: (voter's signature).

(c) The absentee voter shall mark the ballot and the ballot shall then be folded so as to conceal the marking and be placed in the envelope marked "Absentee Ballot" and the envelope sealed. The voter shall then place the sealed envelope marked "Absentee Ballot" in the outer envelope, seal it and complete the certificate and mail it. The preaddressed outer envelope shall be directed to the election board at the reservation. Absentee ballots must be received by the election board not later than the close of the polls or as otherwise directed by the election board.

(d) The election board shall make and keep a record of ballots mailed, to whom mailed, the date of mailing, the address on the envelope, the date of the return of the ballot, and from whom received. After duly recording the receipt date of absentee ballots received on time, representatives of the election board shall open the outer envelopes, secure them and place the unmarked inner envelopes containing the ballots in a separate box reserved for that purpose. After all other ballots have been counted, the absentee ballots shall be counted immediately and included in the results of the election.

**§ 52.20 Ballots.**

(a) Ballots are to be prepared clearly and simply so that it is easy for the voters to indicate a choice between no more than two alternatives. For example, if a tribal council or the petitioners propose to reduce the one-half degree blood quantum required to qualify for membership but want the voters to decide whether it should be one-fourth or one-eight, it would not be appropriate to put those two alternatives on the ballot. Doing so, would deny the voters an opportunity to vote for keeping the one-half degree blood quantum. Neither would it be appropriate to include all three blood quantum alternatives. Rather, those proposing the change should decide

which blood quantum is to be submitted to the voters. The ballot in the Secretarial election would then give the electors the choice of marking either "yes" or "no." A vote against the proposed change would be in favor of keeping the one-half degree blood quantum in the example.

(b) In preparing ballots for proposed amendments, care should be taken to ensure that: (1) Each proposed amendment addresses only a single question.

(2) If a proposed amendment conflicts with other provisions of the document being amended, the ballot shall be prepared so that the question includes all changes in those other directly related provisions in order to avoid contradictions within the document.

(3) When more than one amendment is being submitted to the voters at a given election, the proposals shall be identified with alphabetical designations rather than numerical. The first of the several proposals would be labeled "Proposed Amendment A," the next would be "Proposed Amendment B," etc. Those amendments that are adopted and approved would then be assigned consecutive numbers to follow those assigned any earlier amendments that may have been make to that governing document. A statement similar to the following shall appear on each of the proposed amendments and shall be completed following the election:

Having been duly adopted and approved, Proposed Amendment (A,B,C, etc.) is hereby designated as Amendment No. — to the (Constitution, Charter, etc.) of the (name of tribe) Tribe.

(c) The election board will supply all ballots. Each ballot shall be stamped in red ink on its face in the same place:

OFFICIAL BALLOT

(Facsimile Signature)

CHAIRMAN, ELECTION BOARD

(d) Should any voter spoil or mutilate a ballot in the course of voting at a poll, the voter shall destroy it in the presence of the election officials and the election officials shall then make note of the destroyed ballot and furnish the voter with another ballot.

(e) Any spoiled or mutilated absentee ballot may be exchanged for a new one by returning it to the election board with a request for another. The board shall honor the request promptly and note the dates of related actions. No extension of time will be granted for receipt of exchanged ballots that might not be cast on time.

**§ 52.21 Counting of ballots.**

All duly cast ballots are to be counted. Even though it will not be possible to determine the intent of the voter regarding spoiled and mutilated ballots, they are to be counted for purposes of determining whether the required percentage of voters have cast their ballots in the election. Invalid ballots shall not be counted for purposes of determining the required percentage of votes cast.

**§ 52.22 Contesting of election results.**

Any qualified voter, within three days following the posting of the results of an election, may challenge the election results by filing with the Secretary through the officer in charge the grounds for the challenge, *together with substantiating evidence.* If in the opinion of the Secretary, the objections are valid and warrant a recount or new election, the Secretary shall order a recount or a new election. The results of the recount or new election shall be final.

**§ 52.23 Posting and certifying election results.**

(a) The results of the election shall be posted in the local Bureau of Indian Affairs office, tribal headquarters, and at other appropriate public places determined by the election board.

(b) The election board shall certify the results of the election on the following form and transmit them to the local unit of the Bureau of Indian Affairs:

Certificate of Results of Election

Pursuant to a Secretarial election authorized by the (title of authorizing officer) on (date), the attached Constitution and Bylaws (Amendment, Charter or Charter Amendment) of the (name of tribe) was submitted to the qualified voters of the tribe and on (date), was duly (adopted) (ratified) (rejected) or (revoked) by a vote of (number) for and (number) against and (number) cast ballots found spoiled or mutilated in an election in which at least 30 percent (or such "percentages" as may be required to amend according to the constitution) of the (number) members entitled to vote, cast their ballot in accordance with (appropriate Federal statute). Signed: (By the chairman of the election board and board members.) Date: ———

**§ 52.24 Approval, disapproval or rejection action.**

(a) Action to approve or disapprove constitutional actions will be taken promptly by the authorizing officer following receipt of the original text of the material voted upon and the original of the Certificate of Results of Election from the officer in charge.

(1) When required and granted, the authorizing officer shall furnish a tribe with written approval of constitutional actions. In the absence of an election challenge, the approval shall be issued promptly following the expiration of the contest period. Copies of his/her written approval, the Certificate of Results of Election, and the text of the material voted upon shall be transmitted to the Commissioner of Indian Affairs, 18th and C Streets, NW., Washington, D.C. 20245.

(2) When a proposed constitution or charter action is rejected by the voters, the authorizing officer shall indicate in writing to the tribe his/her awareness of the election results and send to the Commissioner of Indian Affairs in Washington, D.C., copies of the communication, the Certificate of Results of Election and the text of the material voted upon.

(3) When the authorizing officer disapproves a constitutional action, he/she shall in writing promptly notify the tribe of the determination and furnish the Commissioner of Indian Affairs in Washington, D.C., a copy of the communication along with the Certificate of Results of Election and the text of the material voted upon.

(b) Where Secretarial approval of proposed constitutional and charter actions is required in conjunction with authorization of an election, copies of the formal approval shall immediately be furnished the Commissioner of Indian Affairs in Washington, D.C., by the authorizing officer and be followed in accordance with paragraph (a)(1) of this section by copies of the Certificate of the Results of Election and the text of the material voted upon as soon as it is available.

**William E. Hallett,**

*Commissioner of Indian Affairs.*

[FR Doc. 81-528 Filed 1-6-81; 8:45 am]

BILLING CODE 4310-02-M

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**25 CFR Part 53**

## Tribes Organized Under Section 16 of the Indian Reorganization Act and Other Organized Tribes; Procedures for Petitioning To Effect Secretarial Actions

December 29, 1980.

**AGENCY:** Bureau of Indian Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Bureau amends Part 53 to Subchapter G, Chapter I of Title 25 of the Code of Federal Regulations. The purpose of these amendments is: (a) to

clarify what has proven confusing language in existing regulations as to who can sign petitions; and (b) to extend existing procedures, previously limited to requests for constitutional actions, to cover petitioning the Secretary to issue a charter to a reorganized tribe and any other action a tribal constitution or charter may authorize the Secretary to take upon receipt of a petition.

**EFFECTIVE DATE:** February 6, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Farring, Division of Tribal Government Services, Branch of Tribal Relations, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20245, (202) 343-2511.

**SUPPLEMENTARY INFORMATION:** The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Proposed amendments to 25 CFR Part 53 were published in the **Federal Register** on pages 40349 through 40351 on July 10, 1979, and comments were invited. No significant substantive comments were received, and the final rule reflects the amendments proposed. The purpose of the amendments is:

(a) to clarify what has proven to be confusing language in existing regulations as to who may sign petitions, and

(b) to extend existing procedures, previously limited to requests for constitutional actions, to cover petitioning the Secretary to issue a charter to a reorganized tribe or to take any other action a tribal constitution or charter may authorize the Secretary to take upon receipt of a petition.

The definitions are an integral part of the regulations and should be carefully read as such.

The principal author of this document is Leslie N. Gay, Jr., of the Division of Tribal Government Services, Bureau of Indian Affairs.

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.

Part 53 of Subchapter G of Chapter 1 of Title 25 of the Code of Federal Regulations is amended to read as follows:

## PART 53—PETITIONING PROCEDURES FOR TRIBES REORGANIZED UNDER FEDERAL STATUTE AND OTHER ORGANIZED TRIBES

Sec.

53.1 Definitions.
53.2 Purpose and scope.
53.3 Applicability to tribal groups.
53.4 Entitlement to petition.
53.5 Sufficiency of a petition.
53.6 Petition format.
53.7 Notarization of petition signatures.
53.8 Filing of petitions.
53.9 Challenges.
53.10 Action on the petition.
53.11 Duration of petition.

**Authority:** 5 U.S.C. 301, and 25 U.S.C. 2, 9, 473a, 476, 477 and 503.

### § 53.1 Definitions.

As used in this part:

(a) "Area Director" means the Director of the Bureau Area Office having administrative jurisdiction over the petitioners' tribe.

(b) "Bureau" means the Bureau of Indian Affairs.

(c) "Charter" means a charter of incorporation the Secretary may issue to a recognized tribe pursuant to a Federal Statute.

(d) "Commissioner" means the Commissioner of Indian Affairs or his/her authorized representative.

(e) "Constitution" or "Constitution and Bylaws" means the written organizational framework of any tribe for the exercise of governmental powers.

(f) "Eligible, entitled, or qualified voter" means the status achieved by a tribal member who meets the requirement of a tribal constitution or election ordinance to vote in a tribal election; provided, that where a tribe has reorganized pursuant to a Federal Statute, to be an entitled or a qualified voter for purposes of this part, the tribal member must be at least 18 years of age and be eligible to register for voting in a Secretarial election (see Part 52 of this chapter).

(g) "Federal Statute" means one of the following: (1) the Act of June 18, 1934, 48 Stat. 984, as amended (Indian Reorganization Act), (2) the Act of June 26, 1936, 49 Stat. 1967 (Oklahoma Indian Welfare Act), or (3) the Act of May 1, 1936, 49 Stat. 1250 (Alaska Native Reorganization Act).

(h) "Local Bureau Official" means the Superintendent, Field Representative, or other line officer of the Bureau of Indian Affairs who has local administrative jurisdiction over the tribe concerned.

(i) "Local Bureau unit" means the Bureau office having local administrative jurisdiction over the tribe concerned.

(j) "Member" means any person who is duly enrolled in a tribe, who meets a tribe's written criteria for membership, or is recognized as belonging to a tribe by the local Indians comprising that tribe.

(k) "Organized tribe" means any tribe that has adopted a constitution outside of a Federal Statute.

(l) "Reorganized tribe" means any tribe that has adopted a constitution pursuant to a Federal Statute.

(m) "Secretarial election" means an election held within a tribe pursuant to regulations prescribed by the Secretary (as distinguished from *tribal* elections which are conducted under tribal authority (See *Cheyenne River Sioux Tribe* v. *Andrus*, 566 F.2d 1085 (8th Cir., 1977), *cert. denied* 439 U.S. 820 (1978)).

(n) "Secretary" means the Secretary of the Interior or his/her authorized representative.

(o) "Spokesman for the petitioners" means the authorized voter of a tribe initiating a petition or designated by the initiators of a petition to speak on their behalf.

(p) "Tribe" means any Indian entity that is listed or is eligible to be listed in the **Federal Register** pursuant to § 54.6(b) of this chapter as recognized and receiving services from the Bureau that has adopted a constitution approved by the Secretary or the Commissioner.

### § 53.2 Purpose and scope.

The purpose of this part is to provide uniformity and order in the formulation and submission of petitions requesting the Secretary or the Commissioner to call elections to amend tribal constitutions, to issue charters pursuant to a Federal Statute, and for such other purposes where constitutions and charters provide for petitioning to effect action by the Secretary or Commissioner.

### § 53.3 Applicability to tribal groups.

The regulations in this part apply: (1) to any tribe which provides in its constitution for petitioning the Secretary or the Commissioner to call elections to amend the tribal constitution; (2) to any tribe whose constitution or charter provides for petitioning to effect any other action by the Secretary or Commissioner; and (3) to those tribal members at least 18 years of age who, pursuant to a Federal Statute, may wish to petition the Secretary to issue a charter to their tribe.

### § 53.4 Entitlement to petition.

All members eligible to vote in elections conducted by a tribe shall be entitled to sign petitions to effect actions

by the Secretary or Commissioner within the scope of § 53.2; provided, that where a tribe is reorganized pursuant to a Federal Statute, only persons eligible to register for Secretarial elections may petition.

**§ 53.5 Sufficiency of a petition.**

(a) The numerical sufficiency of any petition submitted pursuant to this part shall be based upon a number determined by the local Bureau official: (1) by consultation with the tribal governing body regarding the current number of tribal voters; or (2) for reorganized tribes, the number of members considered eligible to register for a Secretarial election and who are at least 18 years of age.

(b) The number shall be made available to the spokesman for the petitioners upon request along with a cut-off date when, for purposes of the petition, no further names will be added.

**§ 53.6 Petition format.**

Petitions may consist of as many pages as are necessary to accommodate the signatures of the petitioners. However, each sheet of a petition must set forth at least a summary of the objectives of the petitioners and must show the date upon which the petition was signed by each individual as well as the current mailing address of each signer.

**§ 53.7 Notarization of petition signatures.**

(a) Signatures to a petition must be authenticated in one of the following ways: (1) through having each signer subscribe or acknowledge his/her signature before a notary public; (2) through having the collector of signatures appeal before a notary and sign, in his/her presence, on each sheet of the petition, a statement attesting that the signatures were affixed on the dates shown and by the individuals whose names appear thereon, and that to the best of his/her knowledge the signatories are eligible, entitled, or qualified voters.

(b) Only an eligible, entitled, or qualified tribal voter shall be recognized as a valid collector of petition signatures.

**§ 53.8 Filing of petitions.**

All petitions submitted pursuant to this part must be filed with the local Bureau official having administrative jurisdiction over the tribe. No petitions will be accepted until a spokesman for the petitioners declares that he/she wishes to make an official filing. Once a declaration of the official filing is made and the petition is given to the local Bureau official, that official shall immediately enter on the petition the date of receipt (this date becomes the date of official filing) and shall inform the spokesman for the petitioners that no additional signatures may be added and that no withdrawal of signatures will be permitted. The local Bureau official shall also acknowledge, in writing, receipt of the petition, indicating the exact number of signatures which are attached and the official filing date. Upon this written acknowledgment of the petition, the local Bureau official shall publicly post at the local Bureau unit serving the tribe a statement of the matter proposed in the petition. This statement shall remain posted for a period of 30 days from the official filing date.

**§ 53.9 Challenges.**

(a) Once an official filing has been made, the local Bureau official shall immediately have copies made of the petition and its signatures. The local Bureau official shall keep these copies at the Agency or field office for 15 days following the date of official filing, during which time they shall be available for examination by authorized voters of the tribe upon request. During this 15-day period, challenges of signatures may be filed with the local Bureau official.

(b) Challenges will be considered on the following grounds: (1) forgery of signatures; and (2) lack of proper qualifications of a signer. No challenge will be considered which is not accompanied by supporting evidence in writing. In the event that an individual's name appears on a petition more than once, all but one of the names shall be stricken.

**§ 53.10 Action on the petition.**

(a) Within 30 days after the official filing date, the local Bureau official shall forward to the Area Director, or when the Area Director is the local Bureau official, directly to the Commissioner, the original of the petition and its accompanying signatures, together with recommendations concerning challenges and conclusions concerning: (1) the validity of the signatures; (2) the adequacy of the number of signatures; and (3) the propriety of the petitioning procedure.

(b) The Area Director or the Commissioner, as the case may be, shall within 45 days after the official filing date decide upon each challenge and the sufficiency of the petition and announce whether the petition shall be acted upon. If a decision is reached that the petitioning action is for any reason insufficient, the spokesman for the petitioners and the governing body of the tribe will be so informed and given the reasons for the decision. If a petitioning action warrants action by the Secretary or Commissioner, the spokesman for the petitioners and the governing body of the tribe concerned will be so informed. The decision in such matters shall be final. The procedures for implementing any action initiated by the acceptance of a petition will be determined in accordance with pertinent directives and regulations.

**§ 53.11 Duration of petition.**

Any petition submitted under this part, shall be considered only for the purpose stated therein. Once a petition has been acted upon, it shall not be used again.

**William E. Hallett,**

*Commissioner of Indian Affairs.*

[FR Doc. 81-529 Filed 1-6-81; 8:45 am]

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

[T.D. 7751]

## Income Tax; Taxable Years Beginning After December 31, 1953; FIFO and Other Ordering Rules for Investment Credit

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document provides final regulations relating to the first-in-first-out rule (FIFO) and other ordering rules for the investment credit. The final regulations also contain special rules for determining the amount of the energy credit. Changes in the applicable tax law were made by the Tax Reduction Act of 1975, the Tax Reform Act of 1976, the Revenue Act of 1978, and the Energy Tax Act of 1978.

**DATES:** In general, the amendments are effective for taxable years beginning after December 31, 1975. However, amendments under some of the acts have later effective dates. For example, the amendments under the Energy Tax Act of 1978 are effective for the period beginning October 1, 1978, and ending on December 31, 1982.

**FOR FURTHER INFORMATION CONTACT:** Mary Frances Pearson of the Legislation & Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458, not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 10, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 46 of the Internal Revenue Code of 1954, relating to ordering rules for the investment credit (45 FR 134). The proposed amendments published on July 10, 1980, were corrected by a correction notice published in the **Federal Register** for July 31, 1980 (45 FR 149). These amendments were proposed to conform the regulations to reflect certain changes made by the Tax Reduction Act of 1975 (89 Stat. 36), the Tax Reform Act of 1976 (90 Stat. 1580 and 1759), the Revenue Act of 1978 (92 Stat. 2824), and the Energy Tax Act of 1978 (92 Stat. 3194). None of these amendments reflected any changes made by the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96–223).

Since a public hearing was not requested, none was held. After consideration of all written comments regarding the proposed amendments, these amendments are adopted as revised by this Treasury decision.

**Ordering of Credits**

All comments suggest clarification of the order of application of the regular and ESOP credits. Proposed § 1.46–1(j) (relating to the definition of tax liability for the regular and ESOP credit) cross-references to § 1.46–8(c)(9)(ii) and proposed § 1.46–1(m) for the ordering of the regular and ESOP credits. Under § 1.46–8(c)(9)(ii), in general, regular credits from a taxable year are allowed before ESOP credits from that year, but ESOP carryovers are applied before regular credit earned and ESOP credit earned is applied before regular carrybacks. The ordering of the regular and ESOP credits under § 1.46–8(c)(9)(ii) is inconsistent with proposed § 1.46–1(m), which requires application of regular carryovers, regular credit earned, and regular carrybacks before any ESOP credit.

In accordance with the vast majority of comments, the final regulations revise § 1.46–1(m) to be consistent with § 1.46–8(c)(9)(ii).

**Suggestions not Adopted**

One comment suggested adoption of the ordering rule as set forth in proposed § 1.46–1(m). This suggestion was not adopted because proposed § 1.46–1(m) would result in "bumping" of ESOP credit by regular credit carrybacks. Since the ESOP credit requires an irrevocable election and, within 30 days, a contribution of cash or stock equal to the value of the ESOP credit to the plan ("TRASOP"), "bumping" may create burdensome administrative problems for TRASOP's. In addition, regular credit earned would be utilized before older ESOP credit carried over to the current year.

Several other comments suggested applying all carryovers, including nonrefundable energy credit carryover, before credit earned and applying all credit earned, including nonrefundable energy credit earned, before any carrybacks. This comment was not adopted. Nonrefundable energy credits should be applied last because, in general, they have a 100 percent tax liability limitation and, thus, can be utilized more readily.

**Drafting Information**

The principal author of this regulation is Richard L. Mull of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation both on matters of substance and style.

*Adoption of Amendments to the Regulations*

Accordingly, 26 CFR Part 1 is amended as follows:

**Drafting Information**

**Paragraph 1.** Section 1.46–1 is amended as follows: 1. Paragraphs (a), (b), (c), and (d) are revised.

2. Paragraph (e) is redesignated as paragraph (o) and is changed by revising the first sentence.

3. Paragraph (f) is redesignated as paragraph (p) and is changed as follows:

a. Subparagraph (1) is changed by revising the first sentence.

b. Subparagraph (2) is changed by deleting the 7th sentence in subdivision (i), and by deleting "section 46 (a)(2)" in subdivision (iii) and inserting in lieu thereof "section 46(a)(3)".

c. Subparagraph (4) is changed by revising the second sentence.

d. Examples (1) and (2) of subparagraph (5) are revised by changing "1970" wherever it appears to "1976", by changing "1971" wherever it appears to "1977", by changing "liability for tax" wherever it appears to "tax liability", and by changing "limitation based on amount of tax" wherever it appears to "tax liability limitation".

4. New paragraphs (e) through (n) are added. These new and revised provisions read as follows:

**§ 1.46–1 Determination of amount.**

(a) *Effective dates*—(1) *In general.* This section is effective for taxable years beginning after December 31, 1975. However, transitional rules under paragraph (g) of this section are effective for certain earlier taxable years.

(2) *Acts covered.* This section reflects changes made by the following Acts of Congress:

| *Act and Section* |
|---|
| Tax Reduction Act of 1975, section 301. |
| Tax Reform Act of 1976, section 802, 1701, 1703. |
| Revenue Act of 1978, section 311, 312. |
| Energy Tax Act of 1978, section 301. |

(3) *Prior regulations.* For taxable years beginning before January 1, 1976, see 26 CFR § 1.46–1 (Rev. as of April 1, 1979). Those regulatons do not reflect changes made by Pub. L. 89–384, Pub. L. 89–389, and Pub. L. 91–172.

(b) *General rule.* The amount of investment credit (credit) allowed by section 38 for the taxable year is the portion of credit available under section 46(a)(1) that does not exceed the limitation based on tax under section 46(a)(3).

(c) *Credit available.* The credit available for the taxable year is the sum of—

(1) Unused credit carried over from prior taxable years under section 46(b) (carryovers).

(2) Amount of credit determined under section 46(a)(2) for the taxable year (credit earned), and

(3) Unused credit carried back from succeeding taxable years under section 46(b) (carrybacks).

(d) *Credit earned.* The credit earned for the taxable year is the sum of the following percentages of qualified investment (as determined under section 46 (c) and (d))—

(1) The regular percentage (as determined under section 46(a)(2)(B)).

(2) For energy property, the energy percentage (as determined under section 46(a)(2)(C)), and

(3) The ESOP percentage (as determined under section 46(a)(2)(E)).

(e) *Designation of credits.* The credit available for the taxable year is designated as follows:

(1) The credit attributable to the regular percentage is the "regular credit".

(2) The credit attributable to the ESOP percentage is the "ESOP credit".

(3) The credit attributable to the energy percentage for energy property other than solar or wind is the "nonrefundable energy credit".

(4) The credit attributable to the energy percentage for solar or wind energy property is the "refundable energy credit".

(f) *Special rules for certain energy property.* Energy property is defined in section 48(l). Under section 46(a)(2)(D), energy property that is section 38 property solely by reason of section 48(l)(1) qualifies only for the energy credit. Other energy property qualifies for both the regular credit (and, if applicable, the ESOP credit) and the energy credit. For limitation on the energy percentage for property financed by industrial development bonds, see section 48(l)(11).

(g) *Transitional rule for regular and ESOP credit*—(1) *In general.* Although section 46(a)(2) was amended by section 301(a)(1) of the Energy Tax Act of 1977 to eliminate the transitional rules under section 46(a)(2)(D), those rules still apply in certain instances. Section 46(a)(2)(D) was added by section 301(a) of the Tax Reduction Act of 1975 and amended by section 802(a) of the Tax Reform Act of 1976.

(2) *Regular credit.* Under section 46(a)(2)(D), the regular credit is 10 percent and applies for the following property: (i) Property to which section 46 (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975, but only to the extent of basis attributable to construction, reconstruction, or erection after that date.

(ii) Property to which section 46(d) does not apply, acquired by the taxpayer after January 21, 1975.

(iii) Qualified progress expenditures (as defined in section 46(d)) made after January 21, 1975.

(3) *ESOP credit.* See section 48(m) for transitional rules limiting the period for which the ESOP percentage under section 46(a)(2)(E) applies. For prior statutes, see section 46(a)(2) (B) and (D), as added by section 301 of the Tax Reduction Act of 1975 and amended by section 802 of the Tax Reform Act of 1976.

(4) *Cross reference.* (i) The principles of § 1.48–2 (b) and (c) apply in determining the portion of basis attributable to construction, reconstruction, or erection after January 21, 1975, and in determining the time when property is acquired.

(ii) Section 311 of the Revenue Act of 1978 made the 10 percent regular credit permanent.

(5) *Seven percent credit.* To the extent that, under paragraph (g)(1) of this section, the 10 percent does not apply, the regular credit, in general, is 7 percent. For a special limitation on qualified investment for public utility property (other than energy property), see section 46(c)(3)(A).

(h) *Tax liability limitation*—(1) *In general.* Section 46(a)(3) provides a tax liability limitation on the amount of credit allowed by section 38 (other than the refundable energy credit) for any taxable year. See section 46(a)(10)(C)(i). Tax liability is defined in paragraph (j) of this section. The excess of available credit over the applicable tax liability limitation for the year is an unused credit which may be carried forward or carried back under section 46(b).

(2) *Regular and ESOP tax liability limitation.* In general, the tax liability limitation for the regular and ESOP credits is the portion of tax liability that does not exceed $25,000 plus a percentage of the excess, as determined under section 46(a)(3)(B).

(3) *Nonrefundable energy credit tax liability limitation.* (i) For nonrefundable energy credit carrybacks to a taxable year ending before October 1, 1978, the tax liability limitation is the portion of tax liability that does not exceed $25,000 plus a percentage of the excess, as determined under section 46(a)(3)(B).

(ii) For a taxable year ending after September 30, 1978, the tax liability limitation for available nonrefundable energy credit is 100 percent of the year's tax liability.

(4) *Alternative limitations.* Alternative limitations apply for certain utilities, railroads, and airlines in determining the regular tax liability limitation and, for nonrefundable energy credit carrybacks to taxable years ending before October 1, 1978, the nonrefundable energy credit tax liability limitation. These alternative limitations do not apply in determining the energy tax liability limitation for a taxable year ending after October 1, 1978. The provisions listed below set forth the alternative limitations:

*Code section, type, and years applicable*

46(a)(6),[1] Utilities, Taxable years ending in 1975–1978.

46(a)(7),[2] Utilities, Taxable year ending in 1979.

46(a)(8), Railroads and Airlines, Taxable year ending in 1979 or 1980.

46(a)(8),[3] Railroads, Taxable years ending in 1977 or 1978.

46(a)(9),[3] Airlines, Taxable years ending in 1977 or 1978.

(i) [Reserved]

[1] Section 46(a)(6) was added by section 301(b)(2) of the Tax Reduction Act of 1975 and redesignated as section 46(a)(7) by section 302(a)(1) of the Tax Reform Act of 1976.

[2] Section 46(a)(7) was amended by section 312(b)(1) of the Revenue Act of 1978.

[3] These provisions were repealed by section 312(b)(2) of the Revenue Act of 1978.

(j) *Tax liability*—(1) *In general.* "Tax liability" for purposes of the regular and ESOP credit and carrybacks of nonrefundable energy credit to a taxable year ending before October 1, 1978, means the liability for tax as defined in section 46(a)(4). For ordering of regular, ESOP, and nonrefundable energy credits, see paragraph (m) of this section. In addition to taxes excluded under section 46(a)(4), tax liability does not include tax resulting from recapture of credit under section 47 and the alternative minimum tax imposed by section 55. See sections 47(c) and 55(c)(1).

(2) *Certain nonrefundable energy credit.* For a taxable year ending after September 30, 1978, "tax liability" for purposes of the nonrefundable energy credit is liability for tax, as defined in section 46(a)(4) and paragraph (j)(1) of this section, reduced by the regular and ESOP credit allowed for the taxable year. Thus, carrybacks of regular or ESOP credit to a taxable year may displace nonrefundable energy carryovers or credit earned taken into account in that year. However, carrybacks of regular, ESOP, or nonrefundable energy credit do not affect refundable energy credit which is treated as an overpayment of tax under section 6401(b). See paragraph (k) of this section.

(k) *Special rule for refundable energy credit.* The amount of the refundable energy credit is determined under the rules of section 46 (other than section 46(a)(3)). However, to permit the refund, the refundable energy credit for purposes of the Internal Revenue Code (other than section 38, part IVB, and chapter 63 of the Code) is treated as allowed by section 39 and not by section 38. The refundable credit is not applied against tax liability for purposes of determining the tax liability limitation for other investment credits. Rather, it is treated as an overpayment of tax under section 6401(b).

(l) *FIFO rule.* If the credit available for a taxable year is not allowed in full because of the tax liability limitation, special rules determine the order in which credits are applied. Under the first-in-first-out rule of section 46(a)(1) (FIFO), carryovers are applied against the tax liability limitation first. To the extent the tax liability limitation exceeds carryovers, credit earned, and carrybacks are then applied.

(m) *Special ordering rule*—(1) *In general.* Under section 46(a)(10)(A), the FIFO rule applies separately—

(i) First, with respect to regular and ESOP credits, and

(ii) Second, with respect to nonrefundable energy credit.

(2) *Regular and ESOP credit.* Under § 1.46–8(c)(9)(ii), regular and ESOP credits available are applied in the following order:

(i) Regular carryovers;
(ii) ESOP carryovers;
(iii) Regular credit earned;
(iv) ESOP credit earned;
(v) Regular carrybacks; and
(vi) ESOP carrybacks.

(3) *Example.* For an example of the order of application of regular and ESOP credits, see § 1.46–8(c)(9)(iii).

(n) *Examples.* The following examples illustrate paragraphs (a) through (m) of this section.

*Example (1).* (a) Corporation M's regular credit available for its taxable year ending December 31, 1979 is as follows:

| | |
|---|---|
| Regular carryovers | $5,000 |
| Regular credit earned | 10,000 |
| Regular carrybacks | 15,000 |
| Credit available | 30,000 |

(b) M's "tax liability" for 1979 is $30,000. M's tax liability limitation for 1979 for the regular credit is $28,000, consisting of $25,000 plus 60 percent of the $5,000 of "tax liability" in excess of $25,000.

(c) The regular carryovers and credit earned are allowed in full. However, only $13,000 of the regular carryback is allowed for 1979. The remaining $2,000 must be carried to the next year to which it may be carried under section 46(b).

*Example (2).* (a) For its taxable year ending December 31, 1980, corporation N has $30,000 regular credit earned and $9,000 nonrefundable energy credit earned. N has no carryovers to 1980 and no "tax liability" for pre-1980 years.

(b) N's "tax liability" for 1980 for the regular credit is $35,000. N's tax liability limitation for 1980 for the regular credit is $32,000, consisting of $25,000 plus 70 percent of the $10,000 of "tax liability" in excess of $25,000.

(c) The entire regular credit is allowed in 1980.

(d) N's "tax liability" for 1980 for the nonrefundable energy credit is $5,000, consisting of $35,000 less $30,000 regular credit allowed for 1980. N's tax liability limitation for 1980 for the nonrefundable energy credit is 100 percent of $5,000.

(e) $5,000 of the nonrefundable energy credit is allowed for 1980. The remaining $4,000 energy credit is an unused nonrefundable energy credit which must be carried to the next year to which it may be carried under section 46(b).

*Example (3).* (a) Assume the same facts as in example (2) except that in its taxable year ended December 31, 1981, N earns a regular credit of which it may carry back $2,000 to 1980.

(b) The $30,000 regular credit earned and $2,000 of the regular carryback is allowed for 1980. N's "tax liability" for 1980 for the nonrefundable energy credit is reduced to $3,000, consisting of $35,000 less $32,000 regular credit allowed for 1980. The nonrefundable energy credit allowed for 1980 is reduced to $3,000. The remaining $6,000 is an unused nonrefundable energy credit which must be carried to the next year to which it may be carried under section 46(b).

*Example (4).* (a) For its taxable year ending December 31, 1980, corporation P's regular credit earned is $20,000. P also has a $9,000 refundable energy credit for 1980. There are no carryovers or carrybacks to 1980.

(b) P's "tax liability" for 1980 for the regular credit is $25,000 which is also the tax liability limitation for the regular credit.

(c) The entire $20,000 regular credit is allowed for 1980. The entire $9,000 refundable energy credit is treated as an overpayment of tax under section 6401(b), even though "tax liability" remains.

*Example (5).* Assume the same facts as in example (4), except that in the following year P earns a regular credit, $5,000 of which it may carry back to 1980. The $5,000 carryback is allowed in full in 1980.

(o) *Married individuals.* If a separate return is filed by a husband or wife, the tax liability limitation is computed by substituting a $12,500 amount for the $25,000 amount that applies under section 46(a)(3). * * *

(p) *Apportionment of $25,000 amount among component members of a controlled group*—(1) *In general.* In determining the tax liability limitation under section 46(a)(3) for corporations that are component members of a controlled group on a December 31, only one $25,000 amount is available to those component members for their taxable years that include that December 31. * * *

* * * * *

(4) *Members of a controlled group filing a consolidated return.* * * * In that case, the tax liability limitation for the group filing the consolidated return is computed by substituting for the $25,000 amount under section 46(a)(3) the total amount apportioned to each component member that joins in filing the consolidated return. * * *

**Par. 2.** Section 1.46–2 is amended to read as follows:

**§ 1.46–2 Carryback and carryover of unused credit.**

(a) *Effective date.* This section is effective for taxable years beginning after December 31, 1975. For taxable years beginning before January 1, 1976, see 26 CFR 1.46–2 (Rev. as of April 1, 1979).

(b) *In general.* Under section 46(b)(1), unused credit may be carried back and carried over. Carrybacks and carryovers of unused credit are taken into account in determining the amount of credit available and the credit allowed for the taxable years to which they may be carried. In general, the application of the rules of this section to regular and ESOP credits are separate from their application to nonrefundable energy credits. For example, the limitations on carrybacks and carryovers of unused nonrefundable energy credit under section 46(b) (2) and (3), respectively, differ in amount from the limitations on the regular and ESOP credits because the tax liability limitations for those credits differ. See § 1.46–1(h). For a further example, see the special ordering rule in § 1.46–1(m). Section 46(b) does not apply to the refundable energy credit.

(c) *Unused credit.* If carryovers and credit earned (as defined in § 1.46–1(c)(1)) exceed the applicable tax liability limitation, the excess attributable to credit earned is an unused credit. The taxable year in which an unused credit arises is referred to as the "unused credit year".

(d) *Taxable years to which unused credit may be carried.* An unused credit is a carryback to each of the 3 taxable years preceding the unused credit year and a carryover to each of the 7 taxable years succeeding the unused credit year. An unused credit must be carried first to the earliest of those 10 taxable years. An unused credit then must be carried to each of the other 9 taxable years (in order of time) to the extent that the unused credit was not absorbed during a prior taxable year because of the limitations under section 46(b) (2) and (3).

(e) *Special rule for pre-1971 years*—(1) *In general.* For unused credit years ending before January 1, 1971, unused credit is allowed a 10-year carryover rather than the 7-year carryover. The principles of paragraph (d) of this section apply to this 10-year carryover.

(2) *Cross reference.* For limitations on the taxable years to which unused credit from pre-1971 credit years may be carried, see paragraph (g) of this section.

(f) *Limitations on carrybacks.* Under the FIFO rule to section 46(a)(1), carryovers and credit earned are applied against the tax liability limitation before carrybacks. Thus, carrybacks to a taxable year may not exceed the amount by which the applicable tax liability limitation for that year exceeds the sum of carryovers to and credit earned for that year. Carrybacks from an unused credit year are applied against tax liability before carrybacks from a later unused credit year. To the extent an unused credit cannot be carried back to a particular preceding taxable year, the unused credit must be carried to the next succeeding taxable year to which it may be carried.

(g) *Limitations on carryovers*—(1) *General rule.* Carryovers to a taxable year may not exceed the applicable tax liability limitation for that year. Carryovers from an unused credit year are applied before carryovers from a later unused credit year.

(2) *Exception.* A 10-year carryover from a pre-1971 unused credit year may, under certain circumstances, be postponed to prevent a later-earned 7-year carryover from expiring. This exception does not extend the 10-year carryover period for pre-1971 unused credit. See section 46(b)(1)(D).

(h) *Examples.* The following examples illustrate paragraphs (a) through (g) of this section.

*Example (1).* (a) Corporation M is organized on January 1, 1977 and files its income tax return on a calendar year basis. Assume the facts set forth in columns (1) and (2) of the following table. The determination of the regular credit allowed for each of the taxable years indicated is set forth in the remaining portions of the table.

| | (1) | (2) | (3) | (4) | (5) | (6) | (7) |
|---|---|---|---|---|---|---|---|
| | Credit available | Tax liability | Percent | Tax liability limitation* (remaining from col. (6) on preceding line) | Credit allowed (lower of (1) or (4)) | Remaining tax liability limitation ((4)–(5)) | Unused credit ((1)–(5)) or (amount absorbed) |
| 1977: | | | | | | | |
| A. Credit earned | $20,000 | $45,000 | 50 | $35,000 | $20,000 | $15,000 | 0 |
| B. Carryback from 1978 | *15,000 | | | [15,000] | 15,000 | | |
| 1978: | | | | | | | |
| A. Credit earned | 60,000 | 55,000 | 50 | 40,000 | 40,000 | 0 | $20,000 |
| Carryback to 1977 | | | | | | | (*15,000) |
| Carryover to 1979 | | | | | | | (*5,000) |
| 1979: | | | | | | | |
| A. Carryover from 1978 | *5,000 | 50,000 | 60 | 40,000 | 5,000 | 35,000 | |
| B. Credit earned | 50,000 | | | [35,000] | 35,000 | 0 | 15,000 |
| Carryover to 1980 | | | | | | | (*15,000) |
| 1980: | | | | | | | |
| A. Carryover from 1979 | *15,000 | 55,000 | 70 | 46,000 | 15,000 | 31,000 | |
| B. Credit earned | 25,000 | | | [31,000] | 25,000 | 6,000 | 0 |

*For line "A" each year: Lesser of (1) tax liability or (2) $25,000 + (percentage in col. (3) × [col. (2) − $25,000]). See, § 1.46–1(h). For other lines: Amount in col. (6) on preceding line.

*Example (2).* (a) Assume the same facts as in example (1) except for 1979 M earns a $35,000 nonrefundable energy credit. The following table shows the determinations for each year.

| | (1) | (2) | | (3) | (4) | (5) | (6) | (7) |
|---|---|---|---|---|---|---|---|---|
| | | Tax liability | | | | | | |
| | Credit available | (a) Regular | (b) Energy ((2)(a)–(5)(R)) | Percent | Tax liability limitation* (remaining from col. (6) on preceding line) | Credit allowed (lower of (1) or (4)) | Remaining tax liability limitation ((4)–(5)) | Unused credit ((1)–(5)) or (amount absorbed) |
| 1977: | | | | | | | | |
| Regular: | | | | | | | | |
| A. Credit earned | $20,000 | $45,000 | | 50 | $35,000 | $20,000R | $15,000 | 0 |
| B. Carryback from 1978 | *15,000 | | | | [15,000] | 15,000R | 0 | |
| 1978: | | | | | | | | |
| Regular: | | | | | | | | |
| A. Credit earned | 60,000 | 55,000 | | 50 | 40,000 | 40,000R | 0 | $20,000 |
| Carryback to 1977 | | | | | | | | (*15,000) |
| Carryover to 1979 | | | | | | | | (*5,000) |
| Energy: | | | | | | | | |
| A. Carryback from 1979 | *15,000 | | $15,000 | 100 | 15,000 | 15,000E | 0 | |
| 1979: | | | | | | | | |
| Regular: | | | | | | | | |
| A. Carryover from 1978 | *5,000 | 50,000 | | 60 | 40,000 | 5,000R | 35,000 | |
| B. Credit earned | 50,000 | | | | [35,000] | 35,000R | 0 | 15,000 |
| Carryover to 1980 | | | | | | | | (*15,000) |
| Energy: | | | | | | | | |
| A. Credit earned | 35,000 | | 10,000 | 100 | 10,000 | 10,000E | 0 | 25,000 |
| Carryback to 1978 | | | | | | | | (*15,000) |
| Carryover to 1980 | | | | | | | | (*10,000) |
| 1980: | | | | | | | | |
| Regular: | | | | | | | | |
| A. Carryover from 1979 | *15,000 | 55,000 | | 70 | 46,000 | 15,000R | 31,000 | |
| B. Credit earned | 25,000 | | | | [31,000] | 25,000R | 6,000 | 0 |
| Energy: | | | | | | | | |
| A. Carryover from 1979 | *10,000 | | 15,000 | 100 | 15,000 | 10,000E | 5,000 | |

*See footnote to the chart in example (1).

(b) Although, in general, a nonrefundable energy credit may be carried back to taxable years ending before October 1, 1978, in this example the unused nonrefundable energy credit from 1979 may not be absorbed in 1977. The 1977 tax liability limitation for the nonrefundable energy credit is the same as it is for the regular credit, reduced by regular credit previously allowed for 1977. See §§ 1.46-1(h)(3) and 1.46-1(m).

*Example (3).* (a) Assume the same facts as in example (2) except M has regular credit of $37,000 for 1981 and M's tax liability for 1981 is $32,500. The determinations for 1980 and 1981 are set forth in the following table.

| | (1) | (2) | | (3) | (4) | (5) | (6) | (7) |
|---|---|---|---|---|---|---|---|---|
| | | Tax liability | | | | | | |
| | Credit available | (a) Regular | (b) Energy ((2)(a)-(5)(R)) | Percent | Tax liability limitation* (remaining from col. (6) on preceding line) | Credit allowed (lower of (1) or (4)) | Remaining tax liability limitation ((4)-(5)) | Unused credit ((1)-(5)) or (amount absorbed) |
| 1979 (restated): | | | | | | | | |
| Energy: | | | | | | | | |
| To be carried over | | | | | | | | $10,000 |
| Carryover to 1980 | | | | | | | | (*9,000) |
| Carryover to 1981 | | | | | | | | (*1,000) |
| 1980 (restated): | | | | | | | | |
| Regular: | | | | | | | | |
| A. Carryover from 1979 | $15,000 | $55,000 | | 70 | $46,000 | $15,000R | $31,000 | |
| B. Credit earned | *25,000 | | | | [31,000] | 25,000R | 6,000 | 0 |
| C. Carryback from 1981 | *6,000 | | | | [6,000] | 6,000R | 0 | |
| Energy: | | | | | | | | |
| A. Carryover from 1979 | *9,000 | | $9,000 | 100 | 9,000 | 9,000E | | |
| 1981: | | | | | | | | |
| Regular: | | | | | | | | |
| A. Credit earned | 37,000 | 32,500 | | 80 | 31,000 | 31,000R | 0 | 6,000 |
| Carryback to 1980 | | | | | | | | (*6,000) |
| Energy: | | | | | | | | |
| A. Carryover from 1979 | *1,000 | | 1,500 | 100 | 1,500 | 1,000E | 500 | 0 |

*See footnote to chart under example (1).

(b) Allowance of the regular carryback in 1980 from 1981 requires that the computations for 1980 be restated. The energy tax liability limitation for 1980 is reduced from $15,000 (as determined in example (2)) to $9,000. Thus, $1,000 of the $10,000 energy credit allowed for 1980 is displaced by the regular carryback. That amount may not be carried back because there is no remaining energy tax liability limitation for the prior 3 years (see table in example (2)). It may be carried over to 1981 and allowed in full in that year.

(i) [Reserved]

(j) *Electing small business corporation.* A shareholder of an electing small business corporation (as defined in section 1371(b)) may not take into account unused credit of the corporation attributable to unused credit years for which the corporation was not an electing small business corporation. However, a taxable year for which the corporation is an electing small business corporation is counted as a taxable year for determining the taxable years to which that unused credit may be carried.

(k) *Periods of less than 12 months.* A fractional part of a year that is considered a taxable year under sections 441(b) and 7701(a)(23) is treated as a preceding or succeeding taxable year for determining under section 46(b) the taxable years to which an unused credit may be carried.

(l) *Corporate acquisitions.* For carryover of unused credits in the case of certain corporate acquisitions, see section 381(c)(23).

This Treasury decision is issued under the authority contained in Code sections 7805 (68A Stat. 917, 26 U.S.C. 7805) and 38(b) (76 Stat. 962, 26 U.S.C. 38).

**William E. Williams,**

*Acting Commissioner of Internal Revenue.*

Approved: December 29, 1980.

**Emil M. Sunley,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 80-40836 Filed 12-30-80; 4:00 pm]

BILLING CODE 4830-01-M

## 26 CFR Part 1

**[T.D. 7749]**

## Income Tax; Taxable Years Beginning After December 31, 1953; Allowance of Deductions to Foreign Corporations

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final Income Tax Regulations relating to the allowance of deductions for interest expense to foreign corporations doing business in the United States. Prior to the issuance of these regulations, the rules found in § 1.861-8 for the allocation and apportionment of deductible expenses applied to the allowance of all deductions to these foreign corporations. Under these final regulations, the rules of § 1.861-8 will continue to apply to foreign corporations except with respect to the deduction for interest expense. Separate rules are provided under new § 1.882-5 for the determination of the interest expense deduction.

**EFFECTIVE DATE:** The regulations are effective for periods after February 6, 1981 or, at the option of the taxpayer, to taxable years beginning after the last taxable year ending before February 6, 1981 or, at the option of the taxpayer, to taxable years beginning after 1976.

**FOR FURTHER INFORMATION CONTACT:** Herman B. Bouma of the Legislation & Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR-86-79), 202-566-3289, not a toll-free call.

**SUPPLEMENTARY INFORMATION:**

### Background

On February 27, 1980, the **Federal Register** published proposed

amendments to the Income Tax Regulations (26 CFR Part 1) under sections 861 and 882 of the Internal Revenue Code of 1954 (45 FR 12844). The amendments pertained to the allowance of interest expense deductions to foreign corporations doing business in the United States. A public hearing was held on June 4, 1980. After consideration of all comments regarding the proposed amendments, the amendments as set forth in this Treasury Decision are adopted.

**General Explanation of Provisions**

Under section 882(a)(1), a foreign corporation engaged in a trade or business within the United States is taxed on its taxable income effectively connected with the conduct of a trade or business in the United States. In determining the amount of its effectively connected U.S. taxable income, the foreign corporation is allowed deductions from its effectively connected U.S. gross income, but only if and to the extent that the deductions relate to that U.S. gross income. Prior to the issuance of these regulations, a foreign corporation followed the rules set forth in § 1.861–8 to determine the deductions allowed it under section 882(c). See § 1.861–8(f)(1)(iv). Section 1.882–4(c)(1) of these final regulations provides that the rules in § 1.861–8 continue to apply to foreign corporations except with respect to the allowance of the interest expense deduction. New § 1.882–5 presents rules for determining the interest expense deduction allowed to a foreign corporation.

Paragraph (b) of § 1.882–5 provides a three-step process for a foreign corporation to determine the amount of its allowable interest expense deduction. Paragraph (a) of § 1.882–5 states rules that apply in using the three-step process.

Steps 1 and 2 of the three-step process result in the determination of an amount of "U.S.-connected liabilities". This amount of U.S.-connected liabilities bears the same ratio to the amount of assets that generate effectively connected U.S. gross income as the amount of corporate worldwide liabilities bears to the amount of corporate worldwide assets.

Under Step 3 of the three-step process, a foreign corporation elects to use either the branch book/dollar pool method or the separate currency pools method. Under the branch book/dollar pool method, if the amount of U.S.-connected liabilities does not exceed the amount of U.S. branch book liabilities, the interest expense deduction is equal to the amount of U.S.-connected liabilities multiplied by the average U.S.-connected interest rate. If the U.S.-connected liabilities exceed the U.S. branch book liabilities, the interest expense deduction is equal to the sum of the following two amounts. The first amount is the total interest expense shown on the branch's books. The second amount is the difference between the U.S.-connected liabilities and U.S. branch book liabilities, multiplied by the average interest rate on non-U.S.-connected dollar liabilities.

Under the separate currency pools method, the interest expense deduction is equal to the sum of separate interest expense deductions for each currency in which the U.S. branch has incurred liabilities. Each separate deduction is determined by first multiplying the ratio of U.S.-connected liabilities to total U.S. book liabilities by the amount of U.S. book liabilities in the currency for which the deduction is being computed. That product is in turn multiplied by the worldwide interest rate for the particular currency. This interest rate is equal to the total amount of interest expense incurred by the corporation on worldwide borrowings in the particular currency divided by the amount of worldwide borrowings in that currency. The result obtained by multiplying the first product by the worldwide interest rate is the interest deduction for the particular currency. The computation must be made separately with respect to each separate currency in which the U.S. branch has borrowed.

Paragraphs (e)(2)(i) and (f)(1)(iv) of § 1.861–8 are amended by this Treasury Decision to provide cross-references to new § 1.882–5. In addition, this Treasury Decision deletes language in paragraph (f)(1)(iv) of § 1.861–8 which stated that in certain cases the provisions of an income tax treaty between the United States and a foreign country may apply in determining the taxable income of a nonresident alien individual or a foreign corporation.

A number of changes were made to the proposed regulations, both substantive and stylistic. The more important substantive changes are discussed below.

**Records in a Foreign Language**

Under the proposed regulations, if the Director of International Operations or a district director requested records from a foreign corporation and those records were in a foreign language, the foreign corporation would be required to provide a certified translation along with the records. A number of comments objected to this requirement on the grounds that in many cases it would be extremely expensive and time-consuming. The final regulations state that translations must be provided only if and to the extent required by the Director of International Operations or the district director.

**Valuation of Assets**

Several comments stated that the same method for valuing assets should be used for both Steps 1 and 2. The final regulations adopt this proposal but require that either U.S. tax book value or fair market value be used.

**Fixed or Actual Ratio**

Under the proposed regulations, a foreign corporation could use a fixed ratio under Step 2 only if it could not determine its actual ratio of worldwide liabilities to worldwide assets. A number of comments suggested that a foreign corporation should be allowed to use the fixed ratio even if it could determine its actual ratio. This suggestion has been adopted in the final regulations. In addition, the amount of U.S.-connected liabilities will not be limited to the amount of U.S. book liabilities if the fixed ratio has been used.

**Increase of Fixed Ratio**

Several comments indicated that the fixed ratio for banking businesses should be increased in order to more appropriately reflect their actual ratios. The final regulations provide a fixed ratio of 95 percent rather than 90 percent as previously proposed.

**Choice of Methods Under Step 3**

Several comments suggested that a foreign corporation should be allowed to change from the branch book/dollar pool method to the separate currency pools method (or vice versa) without obtaining the consent of the Commissioner. The final regulations retain the rule that one method must be used consistently from year to year but provide one exception. For a foreign corporation's first taxable year beginning after 1980, it may change its method without obtaining the consent of the Commissioner.

**Branch Book/Dollar Pool Method**

Under the branch book/dollar pool method, the interest expense deduction is equal to the sum of the following two amounts if the amount of U.S.-connected liabilities exceeds the U.S. branch book liabilities. The first amount is the total interest expense shown on the branch's books. The second amount is the difference between the U.S.-connected liabilities and U.S. branch book liabilities, multiplied by the average interest rate on non-U.S.-connected liabilities. The final regulations state

that if the non-U.S. offices of the foreign corporation have only a *de minimis* amount of dollar liabilities, then the average U.S.-connected interest rate is applied to the total amount of U.S.-connected liabilities.

**Separate Currency Pools Method**

A number of comments suggested that a foreign corporation should not be required to determine its worldwide interest rate for a particular currency if the amount of U.S. branch borrowings in that currency is small compared to the total amount of U.S. branch borrowings. The final regulations have adopted this suggestion. If the amount of U.S. branch borrowings in a currency other than the currency of the country where the head office is located is less than 3 percent of the amount of all liabilities of the U.S. branch, then the corporation's worldwide interest rate for dollars may be used in lieu of its worldwide interest rate for the particular currency.

**Effective Date**

A number of comments objected to the fact that the regulations would apply to *periods* after the date that is 30 days after publication of the regulations as a Treasury Decision, rather than to taxable years beginning after that date. These comments stated that it would be very difficult to make a split-year computation. The final regulations allow a foreign corporation two separate options for applying the new rules to taxable years beginning before February 6, 1981.

**Regulatory Analysis**

A final regulatory analysis has been prepared with respect to these final regulations and is available for public inspection and copying at the Internal Revenue Service, CC:LR:T, Room 4219, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (202-566-3935, not a toll-free call). The final regulatory analysis is substantially identical to the draft regulatory analysis prepared with respect to the proposed regulations. The final regulatory analysis discusses both the approach followed in the final regulations and an alternative regulatory approach. The alternative approach could have reflected in the foreign corporation's effectively connected taxable income an appropriate portion of the foreign corporation's exchange rate gains and losses attributable to foreign-currency borrowings, which are not effectively connected under present law.

**Drafting Information**

The principal author of these final regulations is Herman B. Bouma of the Legislation & Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

**Adoption of Amendments to the Regulations**

After consideration of all comments presented by interested persons regarding the proposed amendments to the regulations under sections 861 and 882, the following amendments are hereby adopted:

**Paragraph 1.** Paragraphs (e)(2)(i) and (f)(1)(iv) of § 1.861-8 are amended to read as follows:

**§ 1.861-8 Computation of taxable income from sources within the United States and from other sources and activities.**

* * * * *

(e) *Allocation and apportionment of certain deductions.* * * *

(2) *Interest*— (i) *In general.* The method of allocation and apportionment for interest set forth in this paragraph (e)(2) is based on the approach that money is fungible and that interest expense is attributable to all activities and property regardless of any specific purpose for incurring an obligation on which interest is paid. This approach recognizes that all activities and property require funds and that management has a great deal of flexibility as to the source and use of funds. Normally, creditors of a taxpayer subject the money advanced to the taxpayer to the risk of the taxpayer's entire activities and look to the general credit of the taxpayer for payment of the debt. When money is borrowed for a specific purpose, such borrowing will generally free other funds for other purposes and it is reasonable under this approach to attribute part of the cost of borrowing to such other purposes. For the method of determining the interest deduction allowed to foreign corporations under section 882(c), see § 1.882-5.

* * * * *

(f) *Miscellaneous matters*—(1) *Operative sections.* * * *

(iv) *Effectively connected taxable income.* Nonresident alien individuals and foreign corporations engaged in trade or business within the United States are taxed, as provided under sections 871(b)(1) and 882(a)(1), on taxable income which is effectively connected with the conduct of a trade or business within the United States. Such taxable income is determined in most instances by initially determining, under section 864(c), the amount of gross income which is effectively connected with the conduct of a trade or business within the United States. Pursuant to sections 873 and 882(c), this section is applicable for purposes of determining the deductions from such gross income (other than the deduction for interest expense allowed to foreign corporations (see § 1.882-5)) which are to be taken into account in determining taxable income. See example (21) of paragraph (g) of this section.

* * * * *

**Par. 2.** Section 1.882-4 is amended by adding a new paragraph (c) to read as follows:

**§ 1.882-4 Allowance of deductions to foreign corporations.**

* * * * *

(c) *Allowed deductions*—(1) *In general.* Except for charitable contributions and gifts (see section 882(c)(1)(B)), deductions are allowed to a foreign corporation only to the extent they are connected with gross income which is effectively connected with the conduct of a trade or business in the United States. Deductible expenses (other than interest expense) are properly allocated and apportioned to effectively connected gross income in accordance with the rules of § 1.861-8. for the method of determining the interest deduction allowed to a foreign corporation, see § 1.882-5.

(2) *Verification.* At the request of the Director of International Operations or any district director, a foreign corporation claiming deductions from gross income which is effectively connected with the conduct of a trade or business in the United States must furnish at the place designated pursuant to § 301.7605-1(a) information sufficient to establish that the corporation is entitled to the deductions in the amounts claimed. All information must be furnished in a form suitable to permit verification of claimed deductions. The Director of International Operations or district director may require, as appropriate, that an English translation be provided with any information in a foreign language. If a foreign corporation fails to furnish sufficient information, the Director of International Operations or district director may in his discretion disallow any claimed deductions in full or in part.

**Par. 3.** A new § 1.882-5 is added immediately after § 1.882-4 to read as follows:

**§ 1.882-5 Determination of interest deduction.**

(a) *In general.* The interest deduction allowed a foreign corporation under

section 882(c) is determined by the three-step process set forth in paragraph (b) of this section. For purposes of this process, the following rules apply:

(1) *Classification of items.* The classification of items as assets or liabilities must be on a consistent basis from year to year and substantially in accordance with U.S. tax principles.

(2) *Asset valuation.* All assets must be valued on the basis of either U.S. tax book value (adjusted basis for determining gain or loss from sale or other disposition (see section 1011)) or fair market value. The same method must be used for both Step 1 and Step 2 of the three-step process. Once a method is used for a taxable year, that method must be used for all taxable years, unless the Commissioner or his delegate consents to a change. Any reasonable approach for determining fair market value may be used and, as appropriate, different approaches may be used for different types of assets if the same approaches are used consistently from year to year.

(3) *Currency translations.* A particular asset value or liability amount that is denominated in one currency is translated into another currency at the exchange rate for the date the value or amount is determined for purposes of this section. An interest expense amount shown on the books is translated at the exchange rate for the date the amount is paid or accrued. Qualified sources of exchange rates must be determined under the rules of § 1.964–1(d)(5).

(4) *Average total values or amounts.* An average total value of assets, or an average total amount of liabilities, is determined by taking the average of the totals computed at the most frequent, regular intervals (such as daily, weekly, monthly, or quarterly) for which data for all assets, or liabilities, are reasonably available.

(5) *Inter-branch loans.* Assets, liabilities, and interest expense amounts resulting from loan or credit transactions of any type between the separate offices or branches of the same foreign corporation are disregarded.

(6) *Adjustments to reflect substance.* If the substance of a loan or other transaction differs from its form, the Commissioner or his delegate may make appropriate adjustments to reflect the transaction in accordance with its substance. The operation of this rule is illustrated by the following example:

*Example.* Bank A's head office is located in country X. A also maintains branch banking offices in London and in New York. In 1981, A's London branch takes an unsecured loan of $100x from bank B located in country Y. The loan agreement identifies the borrower as "Bank A (London branch)". The London branch in form loans $100x to the New York branch on the same terms and conditions as the loan from bank B, except that the interest rate is 1/16 percent above the bank B loan rate. The pertinent facts demonstrate that in this case the 1/16 percent additional interest represents a fee paid to the London branch by the New York branch in consideration of the London branch's services in obtaining the loan from bank B. Based on all the pertinent facts and circumstances, the substance of the transaction is that the London branch has acted as agent or broker for the New York branch; accordingly, the New York branch could be treated by the Commissioner or his delegate as having obtained the loan directly from bank B. (The rules of § 1.861.8 would apply in determining the deductibility of expenses incurred by bank A, including expenses incurred by the London branch, in obtaining the loan from bank B.)

(b) *Three-step process.* The three-step process for the determination of the interest deduction allowed to a foreign corporation with respect to its effectively connected gross income is as follows:

(1) *Step 1—Asset determination.* The average total value of all assets of the corporation that generate, have generated, or could reasonably have been or be expected to generate income, gain, or loss effectively connected with the conduct of a trade or business in the United States must be determined for the taxable year (or applicable portion thereof). This average total value must be stated in U.S. dollars.

(2) *Step 2—Liability determination.* The amount of liabilities of the corporation connected with the conduct of a trade or business in the United States must be determined for the taxable year (or portion thereof). This amount of U.S.-connected liabilities is determined by multiplying the asset value determined under Step 1 by one of the following two ratios:

(i) *Fixed ratio.* In the case of a U.S. banking, financing, or similar business (as defined in § 1.864–4(c)(5)(i)), ninety-five percent; in the case of any other U.S. business, fifty percent, or

(ii) *Actual ratio.* The ratio of the average total amount of corporate worldwide liabilities (including those of the U.S. trade or business) for the year (or portion thereof) to the average total value of coporate worldwide assets (including those of the U.S. trade or business) for the year (or portion thereof). For purposes of computing this ratio, all liability amounts and asset values must be consistently stated from year to year either in U.S. dollars or in the currency of the country in which the head office of the corporation is located. On the corporation's return for the first taxable year (or portion thereof) to which this section applies, the corporation must elect to use either the ratio in (i) or the ratio in (ii). The elected ratio must be used in later taxable years unless the Commissioner or his delegate consents to a change.

(3) *Step 3—Interest deduction allowed.* On the corporation's return for the first taxable year (or portion thereof) to which this section applies, the corporation must elect to use, for determining the amount of its allowed interest deduction, either the branch book/dollar pool method set forth in paragraph (b)(3)(i) of this section or the separate currency pools method set forth in paragraph (b)(3)(ii) of this section. Once made, the election may not be changed for later taxable years (except as provided in this paragraph (b)(3)) without the consent of the Commissioner or his delegate. For its first taxable year beginning after 1980, a corporation may change methods without obtaining the consent of the Commissioner or his delegate.

(i) *Branch book/dollar pool method.* (A) If the amount of U.S.-connected liabilities, determined under Step 2, does not exceed the average total amount of liabilities (in all currencies) shown on the books of the U.S. trade or business (stated in U.S. dollars), the interest expense allowed to the foreign corporation as effectively connected with the conduct of a trade or business in the United States is determined by multiplying the average total amount of U.S.-connected liabilities for the year by the average U.S.-connected interest rate. The average U.S.-connected interest rate is equal to the ratio of the total amount of interest expense shown on the books of the U.S. trade or business for the year (or portion thereof) to the average total amount of liabilities shown on the books of the U.S. trade or business for the year (or portion thereof). Both the numerator and denominator of this ratio must be stated in U.S. dollars.

(B) If the amount of U.S.-connected liabilities exceeds the average total amount of liabilities shown on the books of the U.S. trade or business (stated in U.S. dollars), the allowed interest deduction is equal to the sum of *(1)* the total amount of interest expense for the taxable year (or portion thereof) shown on the books of the U.S. trade or business, and *(2)* the amount of the excess of U.S.-connected liabilities multiplied by the average interest rate on U.S. dollar liabilities for the taxable year (or portion thereof) shown on the books of the offices or branches of the foreign corporation outside the United States. If information providing the actual average non-U.S.-connected interest rate cannot reasonably be

obtained, then such interest rate may be determined under any method that reasonably approximates the actual rate and that is consistently applied by the corporation from year to year. For example, reference to quoted London inter-bank offered rates (LIBOR) for time deposits with 30 days to maturity may be appropriate. If a corporation has no more than a *de minimis* amount of U.S. dollar liabilities shown on the books of its non-U.S. offices or branches, then the average U.S.-connected interest rate is applied to the total amount of U.S.-connected liabilities.

(ii) *Separate currency pools method.* Under this method, the total allowed interest deduction is the sum of the separate allowed interest deductions for each currency in which the U.S. trade or business has borrowed. In the case of each such currency, the allowed interest deduction is equal to the product of the following three amounts:

(A) The ratio of the amount of U.S.-connected liabilities for the taxable year (or portion thereof), as determined under Step 2, to the average total amount of liabilities (in all currencies) shown on the books of the U.S. trade or business for the year (or portion thereof). The numerator of this ratio is stated in U.S. dollars (see Steps 1 and 2). The denominator of this ratio is to be stated either in U.S. dollars or in the currency of the country in which the head office of the foreign corporation is located.

(B) The average total amount of liabilities shown on the books of the U.S. trade or business for the year (or portion thereof) denominated in the particular currency. This amount is to be stated in the same currency in which the denominator of the ratio described in (A) above is stated.

(C) The corporation's average worldwide interest rate for that particular currency. This interest rate is equal to the ratio of the total amount of interest expense for the taxable year (or portion thereof) incurred by the corporation (including the U.S. trade or business) with respect to liabilities denominated in the particular currency to the average total amount of liabilities of the corporation (including the U.S. trade or business) for the year (or portion thereof) denominated in that currency. The interest expense and liabilities are to be stated in the particular currency.

A corporation may elect to use the average worldwide interest rate determined in (C) above for U.S. dollars as the average worldwide interest rate for *all* currencies (other than the currency of the country in which the head office of the corporation is located) that meet the following 3-percent rule: for the taxable year (or portion thereof) the average total amount of liabilities shown on the books of the U.S. trade or business denominated in the currency (but stated in the currency in which the denominator of the ratio described in (A) above is stated) is less than 3 percent of the average total amount of all liabilities shown on the books of the U.S. trade or business (stated in the currency in which the denominator of the ratio described in (A) above is stated). Once made, the election may not be changed for later taxable years without the consent of the Commissioner or his delegate.

(c) *Examples.* The rules of this section are illustrated by the following examples:

*Example (1).* X, a foreign corporation engaged in the banking business, has a U.S. branch, X-U.S., and is a calendar year taxpayer. For 1982 X determines the amount of interest expense it may deduct from its U.S. effectively connected gross income as follows (foreign currency amounts have been translated into U.S. dollars):

(i) *Step 1—Asset determination.* X determines that for 1982 the average total value of all of its assets that generate, have generated, or could reasonably have been or be expected to generate income, gain, or loss effectively connected with the conduct of a U.S. trade or business is $150.

(ii) *Step 2—Liability determination.* X has elected to use its average worldwide liabilities-to-assets ratio (paragraph (b)(2)(ii)). For 1982 the average total amount of its worldwide liabilities is $1,250 and the average total value of its worldwide assets is $1,300. X's average worldwide liabilities-to-assets ratio is equal to:

$$\frac{\text{X's average total amount of liabilities}}{\text{X's average total amount of assets}} = \frac{\$1,250}{\$1,300} = 96.15\%$$

Thus, the amount of X's U.S.-connected liabilities is equal to:

$150 × 96.15% = $144.22

(iii) *Step 3—Interest deduction allowed.* X has elected to use the branch book/dollar pool method (paragraph (b)(3)(i)). For 1982 the average total amount of liabilities shown on the books of X–U.S. (excluding liabilities to the head office or other branches of X) is $100. Because X's U.S.-connected liabilities are greater than the average total amount of X–U.S.'s book liabilities, X must use paragraph (b)(3)(i)(B) to determine its interest deduction. For 1982 the interest expense shown on the books of X–U.S. is $9.50 and the average interest rate incurred by X's non-U.S. branches on U.S. dollars is 9.97%.

| | |
|---|---|
| Interest expense shown on books of X-U.S. | $9.50 |
| Interest expense on excess of X's U.S.-connected liabilities: | |
| Excess = $144.22—$100 = $44.22 | |
| Average interest rate = 9.97% | |
| Interest expense = $44.22 X 9.97% | 4.41 |
| Interest deduction | 13.91 |

*Example (2).* The facts are the same as in Example (1) except that for Step 3 X has elected to use the separate currency pools method (paragraph (b)(3)(ii)). The facts with respect to the liabilities of X and U.S. branch X-U.S. are as follows:

| | Foreign Corporation X | | | |
|---|---|---|---|---|
| Type of Liabilities Incurred by X-U.S. | Amount of X-U.S. Liabilities | Amount of Worldwide Liabilities | Interest Paid Worldwide | Average Rate of Interest |
| U.S. dollar-denominated liabilities | $75 | $250 | $24.38 | 9.75% |
| Foreign currency A-denominated liabilities | $15 | A50 | A3 | 6% |
| Foreign currency B-denominated liabilities | $10 | B600 | B84 | 14% |

The total interest deduction, equal to the sum of the separate deductions for each currency, is determined as follows:

$$\text{U.S. dollar deduction} = \frac{\$144.22}{\$100.00} \times \$75 \times 9.75\% = \$10.55$$

$$\text{Foreign currency A deduction} = \frac{\$144.22}{\$100.00} \times \$15 \times 6\% = 1.30$$

$$\text{Foreign currency B deduction} = \frac{\$144.22}{\$100.00} \times \$10 \times 14\% = 2.02$$

$$\text{Total interest deduction} = \$13.87$$

(d) *Effective date.* This section applies to periods after February 6, 1981 or, at the option of the taxpayer, to taxable years beginning after the last taxable year ending before February 6, 1981 or, at the option of the taxpayer, to taxable years beginning after 1976.

This Treasury decision is issued under the authority contained in sections 882(c) and 7805 of the Internal Revenue Code of 1954 (80 Stat. 1556; 26 U.S.C. 882(c) and 68A Stat. 917; 26 U.S.C. 7805).

**William E. Williams,**

*Acting Commissioner of Internal Revenue.*

Approved: December 23, 1980.

**Donald C. Lubick,**

*Assistant Secretary of the Treasury.*

[FR Doc. 80-40038 Filed 12-30-80; 4:00 p.m.]

BILLING CODE 4830-01-M

26 CFR Part 1

[T.D. 7748]

## Income Tax; Taxable Years Beginning After December 31, 1953; Limitations on Benefits and Contributions Under Qualified Plans

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to limitations on benefits and contributions under qualified pension plans, etc. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974, the Tax Reform Act of 1976 and the Revenue Act of 1978. The regulations will provide the public with the guidance needed to comply with those Acts and will affect all qualified plans.

**DATES:** Except as otherwise indicated, the regulations are effective for plan years beginning after 1975 and for limitation years ending with or within plan years beginning after 1975.

**FOR FURTHER INFORMATION CONTACT:** Richard J. Wickersham of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3250) (not a toll-free number).

**SUPPLEMENTARY INFORMATION**

### Background

On January 24, 1980, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 401(a)(16), 403(b)(2) and 415 of the Internal Revenue Code of 1954 were published in the **Federal Register** (45 FR 5754). The amendments were proposed to conform the regulations to section 2004 (a) and (c)(4) of the Employee Retirement Income Security Act of 1974 ("ERISA") (88 Stat. 979 and 986), to sections 803(f)(1), 1501(b)(3), 1502(a)(1) and 1511 of the Tax Reform Act of 1976 (90 Stat. 1589, 1735, 1737 and 1741) and to section 153(a) of the Revenue Act of 1978 (92 Stat. 2800).

Additionally, on January 24, 1980, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 401(f) of the Internal Revenue Code of 1954 were published in the **Federal Register** (45 FR 5754). The amendment was proposed to conform the regulations to section 1505(b) of the Tax Reform Act of 1976 (90 Stat. 1738).

After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

### Treatment of Contract as Qualified Trust

In accordance with the amendment to section 401(f) by the Tax Reform Act of 1976, the proposed regulations provided that a contract (other than a life, health or accident, property, casualty or liability insurance contract) issued by an insurance company qualified to do business in a State will be treated as a qualified trust provided that the contract would, except for the fact that it is not a trust, constitute a qualified trust under section 401. No comments were received with respect to this proposed amendment. Accordingly, it is unchanged in the final regulations.

### General Application of Section 415

The limitations on benefits and contributions under section 415 apply to all qualified pension, profit-sharing, annuity, bond purchase and stock bonus plans, including "H.R. 10" plans, as well as so-called "tax sheltered annuities" described in section 403(b) and individual retirement plans described in sections 408 and 409. The limitations of section 415 also apply to simplified employee pensions described in section 408(k).

### General Rules With Respect To Limitations on Benefits and Contributions Under Qualified Plans (§ 1.415-1)

a. *Plan Provisions.* The final regulations do not change the rule set forth in the proposed regulations that precludes employer discretion in connection with the use of provisions by a pension plan which automatically freeze or reduce the rate of benefit accrual to a level necessary to prevent the section 415 limitations from being exceeded. Additionally, the final regulations provide that a profit-sharing or stock bonus plan may contain a provision which automatically freezes or reduces the amount of annual additions, so long as the definite predetermined allocation formula requirement set forth in § 1.401-1(b)(1)(ii) and (iii) of the regulations is not violated.

b. *Special rules for plans maintained by more than one employer.* In accordance with the view of several commentators, the final regulations provide that in applying the limitations of section 415 with respect to a participant of a multiple employer plan described in section 413(b) or section 413(c), the total compensation received by that participant from all of the employers maintaining the plan may be taken into account.

The regulations also make it clear that the limitations of section 415 may be applied to a participant of a section 414(f) multiemployer plan by taking into account all of the benefits or contributions attributable to the participant from all of the employers maintaining the plan (*i.e.*, the rules which apply to multiple employer plans).

Finally, one commentator expressed concern that the section 415 rules relating to multiple employer plans seemingly require the aggregation of benefits provided outside of the multiple employer plan by an employer participating in such plan with the multiple and single plan benefits provided by an unrelated employer participating in the multiple employer plan. However, this concern is unfounded because, in this context, the regulations only require the aggregation of the multiple employer plan benefits with the single plan benefits provided by an employer maintaining the multiple employer plan.

c. *Effective date.* Many commentators were critical of the general effective date set forth in the proposed regulations. The final regulations do not change the general effective date. However, the final regulations provide that for all plan years and limitation years through the plan year beginning before January 7, 1981, a reasonable interpretation of the rules set forth in section 415 of the Code and in Rev. Rul. 75-481, 1975-2 C.B. 188, may be relied upon. The effect of these regulations on employers with existing plans will be addressed by the Service in the near future.

With respect to the special effective date for the rules relating to a change in the limitation year, the final regulations provide that these rules are required to be applied for changes in limitation years which occur after January 7, 1981. This is a change from the proposed regulations. Furthermore, as suggested by several commentators, the final regulations make it clear that these rules may be used for all prior changes in limitation years.

### Definitions and Special Rules (Section 1.415-2)

a. *Limitation year.* Many commentators expressed concern that a literal reading of the proposed regulations regarding the method of electing a limitation year other than the calendar year or to change the limitation year seemingly required a separate resolution by the employer in order for the election to be effective. Accordingly, the final regulations make it clear that these elections may be made in connection with the adoption, by the

employer of the plan or any amendments to such plan. However, plan administrators should be aware of the possibility of an inadvertent violation of the section 415 limitations where more than one plan and one limitation year are involved. (See Rev. Rul. 79-5, 1979-1 C.B. 165.) The final regulations also provide that this clarification applies in connection with the election to determine compensation under an accrual basis.

b. *Compensation.* Except for some clarifying and technical changes, the final regulations define compensation in substantially the same manner as the proposed regulations. Although many commentators criticized the proposed regulations' definition of compensation, the definition contained in the regulations provides the outer limits of what can be included as compensation for section 415 purposes. Thus, for example, for reasons of administrative ease, a plan may define compensation for section 415 purposes in a more restrictive manner than the regulations. If this is done and if the section 415 limitations are satisfied under the more restrictive definition of compensation, those limitations will always be satisfied under the more expansive definition of compensation set forth in the regulations. Moreover, the final regulations contain a safe harbor rule which provides that if the plan defines compensation in accordance with the short form formula set forth under the rule, the plan will automatically be considered to be using a definition of compensation which satisfies section 415(c)(3) and the regulations.

The changes made in the final regulations with respect to the definition of compensation primarily relate to the rules regarding contributions to a plan of deferred compensation. Under the final regulations, contributions made by the employer to a plan of deferred compensation are considered as compensation for section 415 purposes if the contributions are includable in the gross income of the employee in the taxable year in which contributed. This illustrates to some extent the general rule regarding the definition of section 415 compensation. That is, any item that is currently includable in the gross income of the employee may be considered as compensation for section 415 purposes in the year of inclusion. Conversely, any item that is not currently includable in gross income is considered to receive a "tax benefit" in the form of the tax deferral and, therefore, may not be considered as compensation for purposes of section 415 for any year, even if it is includable in gross income in a later year.

The final regulations, however, do provide that amounts received by an employee pursuant to an unfunded non-qualified plan may be considered as section 415 compensation in the year such amounts are includable in the gross income of the employee.

As requested by several commentators, the final regulations also provide a special compensation rule where a section 403(b) annuity contract is aggregated with a qualified plan of a controlled employer.

**Limitation for Defined Benefit Plans (Section 1.415-3)**

a. *General rules.* A considerable number of commentators expressed confusion over the use and definition of the term projected annual benefit in the proposed regulations. To eliminate this confusion, the term has been deleted in the final regulations for purposes of applying the limitations of section 415(b). Accordingly, in applying these limitations, the final regulations look to the annual benefit to which a participant is entitled at any time under a defined benefit plan. In this context, the final regulations make it clear that, in order to satisfy the limitations on annual benefits under section 415(b), the plan provisions must preclude the possibility that an annual benefit exceeding these limitations will be payable at any time. Thus, it is possible that a plan may fail to satisfy the limitation on annual benefits under section 415(b), even though no participant has actually accrued a benefit in the current limitation year in excess of the applicable limitations.

One commentator questioned the appropriate section 415 treatment to be given a pension plan which provides that, on attaining normal retirement age, the accrued benefit of a participant who works past normal retirement age is physically segregated. The participant is then typically given the right to direct the investment of this segregated account, and will be paid the balance of that account at actual retirement. The commentator suggested that this type of plan involves a defined benefit plan that converts (at least for the individual working past normal retirement age) into a defined contribution plan after normal retirement age for purposes of applying the section 415 limitations.

However, under the regulations, this type of plan is governed by the limitations of section 415(b) at all times, and is not converted into a defined contribution plan after normal retirement age merely because a participant's accrued benefit is physically segregated. Moreover, it should be noted that the final regulations make it clear that, for purposes of the limitations of section 415(b), an individual who works past the plan's normal retirement age may not receive a benefit in excess of those limitations, even though the benefit is the actuarial equivalent of an amount (which is within the limitations of section 415) the individual was entitled to receive at normal retirement age.

Finally, in determining a participant's compensation for the high 3 years of service, the final regulations provide a special rule where the participant is employed for less than 3 consecutive years with the employer and make it clear that a plan may use any 12 month period instead of the calendar year provided that it is uniformly and consistently applied.

(b) *Special rules for benefits to which no adjustment is required.* The final regulations do not change the special rules contained in the proposed regulations regarding joint and survivor annuities. Thus, in the case of a joint and survivor annuity with a sum certain feature, the final regulations provide that the joint and survivor feature of the benefit is considered as the add-on amount for purposes of applying the limitations of section 415(b). Although several commentators were critical of this position, it is unchanged in the final regulations because such position avoids the anomalous situation where a benefit which otherwise exceeds the section 415 limits can be changed to satisfy such limits merely by including a joint and survivor feature.

Furthermore, by example, the final regulations provide that the special rule under which no section 415 adjustment is required for a benefit payable in the form of a qualified joint and survivor annuity is only available if the benefit is, in fact, payable in that form. Hence, under the final regulations, for purposes of applying the limitations of section 415(b), any other forms of optional benefits, such as a lump sum distribution, must be adjusted to the value of a straight life annuity. Although several commentators were also critical of this rule, it is unchanged in the final regulations because, based on the statute and the legislative history, it is clear that Congress only intended to encourage qualified joint and survivor annuities provided that the benefit was payable in that form and not other forms which are the actuarial equivalent of a qualified joint and survivor annuity.

c. *Total annual benefits not in excess of $10,000.* Several commentators stated that even though few multiemployer plans provide annual benefits in excess

of $10,000, the de minimis exception of section 415(b)(4) will generally not be available for participants in a multiemployer plan if its application is made to depend on whether that participant is entitled to benefits under any other defined benefit plan of the employer and whether that participant ever participated in a defined contribution plan of that employer. Accordingly, in recognition of the administrative difficulty that would exist for multiemployer plans in trying to satisfy the various conditions of the $10,000 de minimis exception, the final regulations provide that such exception is generally applicable to a multiemployer plan participant without regard to whether that participant ever participated in one or more plans maintained by an employer who also maintains the multiemployer plan.

**Transitional Rule for Defined Benefit Plans (Section 1.415–4)**

*Cost of living adjustments.* Several commentators stated that the proposed regulations were unclear concerning the issue of whether someone taking advantage of the transitional rule may switch over and use the normal section 415 limitations when the dollar limitation of section 415(b)(1)(A), due to cost-of-living adjustments, becomes greater than the amount allowed under the transitional rule. The final regulations make it clear that this type of switchover is permissible.

**Cost of Living Adjustments for Defined Benefit Plans (Section 1.415–5)**

a. *Application of adjusted dollar limitation.* In response to the questions of several commentators, the final regulations make it clear that the annual benefit payable to a terminated participant, which is otherwise limited by the dollar limitation of section 415(b)(1)(A), may only be increased in accordance with cost-of-living adjustments of the dollar limitation if the plan specifically provides for such post-retirement adjustments.

b. *Adjustment of average compensation for high 3 years of service limitation.* As is the case with respect to terminated participants who are subject to the dollar limitation, the final regulations provide that the annual benefit payable to a terminated participant, which is otherwise limited by the compensation limitation, may only be increased in accordance with cost-of-living adjustments of the compensation limitation if the plan specifically provides for such post-retirement adjustments.

Moreover, the final regulations provide that in the case of a participant who has separated from service prior to the first limitation year to which section 415 applies, the cost-of-living adjustment of the compensation limitation for all limitation years prior to the effective date of section 415 is to be determined as provided by the Commissioner.

c. *Automatic cost-of-living adjustments of dollar limitation.* Many commentators were critical of the scheduled annual increase restriction contained in the proposed regulations in connection with the rule allowing a plan provision which provides for an annual automatic cost-of-living adjustment of the dollar limitation. Serious consideration was given to this criticism. However, it was decided that the limitations of section 415 are an appropriate context in which to preclude the making of deductible contributions based on anticipated increases of the dollar limitation, which is the effect of such restriction.

**Limitation for Defined Contribution Plans (Section 1.415–6)**

a. *Annual additions—Employer contributions.* Several commentators were concerned with the uncertainty caused by the provision in the proposed regulations which gave discretion to the Commissioner to treat transactions or allocations under certain facts and circumstances as giving rise to annual additions. This provision is not changed in the final regulations. However, in order to provide some guidance, revenue rulings will be issued in the future to illustrate the type of situation that will give rise to an annual addition under these facts and circumstances provision as well as the facts and circumstances provision set forth in connection with employee contributions.

Additionally, in response to the suggestion of several commentators, the final regulations make it clear that if an amount is contributed to correct an erroneous forfeiture or erroneous failure to allocate amounts in a prior limitation year, the portion of the total amount contributed which reimburses the participant for the loss of investment gains is not considered an annual addition for any limitation year.

b. *Annual additions—Employee contributions.* Several commentators suggested that the final regulations specifically provide that the transfer of employee contributions from one qualified plan to another is not considered an annual addition. The final regulations reflect this suggestion.

c. *Annual additions—Excess annual additions.* Several commentators suggested that the rules governing excess annual additions be expanded so as to apply to situations other than just forfeitures or reasonable errors in estimating compensation. Accordingly, the final regulations provide that in addition to these two situations, the rules will also apply under other limited facts and circumstances which the Commissioner finds justify their availability.

Furthermore, numerous commentators pointed out that the rules set forth in the proposed regulations do not allow for the return of employee contributions. Thus, the final regulations specifically state that, under the circumstances described in the regulations, a plan may provide for the return of employee contributions to the extent that the return would reduce the excess amounts in the participant's account.

Finally, the final regulations make it clear that to the extent interest and investment gains or other income, or investment losses, are allocated to a suspense account created in accordance with these rules, the entire amount allocated to participants from the suspense account, including any gains or less any losses, is considered as the annual addition.

It should be noted that some confusion and uncertainty has arisen in connection with the applicability of the rules regarding excess annual additions. In general, the rules provided in the final regulations are only concerned with excess additions which arise under the limited circumstances set forth in the regulations. In these cases, excess additions can be held in a suspense account or employee contributions can be returned without being counted as an annual addition. Other excess additions which arise under circumstances not described in the regulations must be precluded by a plan's section 415 provisions, because these amounts cannot be put in a suspense account (or, have employee contributions returned on account of such excess).

A defined contribution plan may preclude excess additions arising under circumstances for which the rules contained in the final regulations are not available under two general approaches. Under the first approach, the plan must restrict both contributions and allocations so as to preclude the potential of such excess additions which cannot be allocated to a participant's account because of the limitations of section 415. Alternatively, if the plan's section 415 provisions provide for the allocation and reallocation to other participants if an allocation to a particular participant cannot be made because of section 415, the plan must restrict both contributions and allocations so as to preclude the potential of such excess additions which

cannot be allocated to any of the participants in the plan because the maximum allowable under section 415 has been allocated to all participants. Accordingly, if a defined contribution plan does not contain provisions which so restrict both contributions and allocations, the plan does not preclude the possibility that the limitations of section 415 will be exceeded and, therefore, is not considered a qualified plan.

d. *Annual additions—Time when annual additions credited.* Many commentators stated that the rule requiring employee contributions to be made to the plan within a limitation year in order to be considered as an annual addition for that limitation year will cause substantial administrative difficulty for many plans. In view of this, the final regulations liberalize this rule so as to allow employee contributions to be within 30 days after the close of the limitation year.

Moreover, because of the special rules governing employee contributions to a TRASOP, the final regulations contain a special rule for this situation. This rule provides that such contributions shall be deemed credited to a participant's account in the limitation year for which the contribution is allocated under the terms of the plan, provided that the contributions, or pledges to make the contributions, are actually made no later than the period described in section 404(a)(6) applicable to the taxable year with or within which the particular limitation year ends.

e. *Time and method of making special election for certain section 403(b) annuity contracts.* In accordance with the suggestion of several commentators, the final regulations make it clear that an individual is only considered to have made a special election for a taxable year when the use of one of the alternative limitations is necessary to support the exclusion from gross income reflected in the individual's income tax return for that taxable year. Similarly, it is clear that an excess contribution to a section 403(b) annuity which occurs due to a mistake will not automatically have the effect of a binding election.

In addition, in order to make the rules governing the making of a special election easier to comply with, the final regulations provide that, for those individuals who took advantage of an alternative limitation under the temporary regulations for prior taxable years, the election must be made in the individual's income tax return for the taxable year immediately following the taxable year in which final regulations under section 415 are published in the Federal Register. This is a liberalization from the proposed regulations which required the election be made in the taxable year in which the regulations are published. Finally, the final regulations contain a special rule for those individuals who are not participating in a section 403(b) annuity program in the taxable year in which the election is required to be made.

f. *Employee stock ownership plans—Cash contributions treated as contributions of employer securities.* Several commentators stated that the condition set forth in the proposed regulations which required the employer securities to be purchased no later than 30 days after the end of the section 404(a)(6) period was inconsistent with the TRASOP regulations. Accordingly, to correct this inconsistency, the final regulations provide that cash contributions will be treated as a contribution of employer securities if the securities are purchased no later than 60 days after the end of the period described in section 404(a)(6). Additionally, the final regulations also provide that, in order for this rule to apply, the employer must contribute the cash to the plan no later than 30 days after the end of the section 404(a)(6) period.

**Limitation in Case of Defined Benefit and Defined Contribution Plan for Same Employee (Section 1.415–7)**

a. *Defined benefit plan fraction—Projected annual benefit.* Although the term projected annual benefit has been eliminated in the final regulations for purposes of applying the limitations of section 415(b), it is still applicable in connection with calculating the defined benefit plan fraction under section 415(e). This is consistent with the statutory language under section 415(e).

The projected annual benefit used for purposes of calculating the defined benefit plan fraction is determined based on the use of several assumptions. One of these assumptions is that the participant will earn the same rate of compensation until normal retirement age, or current age, if that is later. Under some funding methods used to determine costs for purposes of deductions and minimum funding requirements, a projected benefit at normal retirement is also computed. For this purpose, it is usually assumed that a participant's compensation will increase in future years, and current costs will be determined to fund toward the higher benefit based on that higher amount of compensation. The projected annual benefit determined under section 415(e) is not intended to change or restrict any calculations used in determining funding costs. Rather, the section 415 projected annual benefit is only used for testing whether the limitation of section 415(e) has been satisfied.

b. *Special rules for section 403(b) annuity contracts.* One commentator stated that the reference in several examples of the proposed regulations to an employee's control or lack of control, within the meaning of section 414 (b) or (c), of a section 501(c)(3) organization was confusing and potentially misleading, since an individual can never be in "control" of such an organization within the meaning of section 414 (b) or (c). Accordingly, the final regulations clarify those examples which contain this reference.

The final regulations also modify the rule requiring contributions to a section 403(b) annuity contract for any limitation year in which an employer is deemed to maintain the annuity as a defined contribution plan to be taken into account even when the employer is no longer considered to maintain the annuity. Under the modification, the rule only applies if the employer is deemed to maintain the annuity because of the individual's election to have the provisions of section 415(c)(4)(C) apply for the taxable year. Thus, the rule does not apply if the employer is considered to maintain the annuity contract as a defined contribution plan because the participant is in control of that employer.

**Combining and Aggregating Plans (Section 1.415–8)**

One commentator suggested that the final regulations should provide that the limitations of section 415 only apply to benefits accrued in years beginning after December 31, 1975. However, in discussing the effective date of the limitations of section 415, the legislative history states that "contributions or accruals which occur before the effective date must, of course, be taken into account." Report of the Conference Committee, H.R. Rep. No. 93–1280, 93d Cong., 2d Sess. 348 (1974).

Therefore, in view of this clear language and because there is no indication anywhere in section 415 that the limitations are to apply only to post-1975 accruals, the final regulations do not reflect the suggestion of the commentator.

**Disqualification of Plans and Trusts (Section 1.415–9)**

Except for some minor clarifying changes, the rules set forth in this section are unchanged from the proposed regulations.

**Special Aggregation Rules (Section 1.415–10)**

The final regulations provide that the rules contained in this section apply where two or more existing plans, which previously were unaggregated, are aggregated during a limitation year on or after the effective date of section 415, thereby causing the limitations of section 415 to be exceeded for that limitation year. The proposed regulations had provided that these rules only apply where two or more previously unaggregated plans are aggregated after the effective date of section 415.

**Drafting Information**

The principal author of this regulation is Norman J. Misher of the Employee Plans and Exempt Organizations Division of the Office of Chief counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

*Adoption of amendments to the regulations*

Accordingly, the proposed amendments to 26 CFR Part 1 are hereby adopted subject to the changes set forth below:

**Paragraph 1.** Section 1.415–1, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Revising paragraph (d)(2);

2. Adding a new sentence at the end of paragraph (e)(1), redesignating paragraph (e)(2)(ii) as (e)(2)(iii), and adding a new paragraph (e)(2)(ii); and

3. Adding a new sentence at the end of paragraph (f)(1) and revising paragraph (f)(7).

These revised and added provisions read as follows:

*§ 1.415–1 General rules with respect to limitations on benefits and contributions under qualified plans.*

* * * * *

(d) *Plan provisions.* * * *

(2) *Special rule for profit-sharing and stock bonus plans.* The use of a plan provision by a profit-sharing or stock bonus plan which automatically freezes or reduces the amount of annual additions to insure that the limitations of section 415 will not be exceeded must comply with the requirement set forth in § 1.401–1(b)(1) (ii) and (iii) that such plans provide a definite predetermined formula for allocating the contributions made to the plan among the participants. Thus, if the operation of this provision involves discretionary action on the part of the employer, the definite predetermined allocation formula requirement will be violated. For example, if two defined contribution plans of one employer otherwise provide for aggregate contributions which may exceed the limits of section 415(c), the plan provisions must specify (without involving employer discretion) which plan will reduce contributions and allocations to prevent an excess annual addition and how the reduction will occur.

(e) *Rules for plans maintained by more than one employer*—(1) *Plans described in section 413(b) or section 413(c).* * * * Furthermore, in applying the limitations of section 415 with respect to such a participant, the total compensation received by the participant from all of the employers maintaining the plan may be taken into account.

(2) *Plans described in section 414(f).* * * *

(ii) As an alternative to applying the limitations of section 415 with respect to a participant of an employer maintaining the multiemployer plan in the manner described in subdivision (i) of this subparagraph, the rules described in subparagraph (1) of this paragraph may be used for purposes of applying the section 415 limitations in connection with that participant.

* * * * *

(f) *Rules relating to the effective date of section 415*—(1) *In general.* * * * However, for all such plan years and limitation years through the plan years beginning before [January 7, 1981], a reasonable interpretation of the rules set forth in section 415 of the Code and in Rev. Rul. 75–481, 1975–2 C.B. 188, may be relied upon.

* * * * *

(7) *Special effective date for rules relating to change of limitation year.* Notwithstanding subparagraph (1) of this paragraph, the provisions of § 1.415–2(b)(4) (relating to the effect of a change of the limitation year) are required to be applied only for changes in limitation years which occur after [January 7, 1981]. These provisions may also be used for all prior changes in limitation years. However, if the provisions of § 1.415–2(b)(4) are not used for changes in limitation years which occur prior to [January 7, 1981], the requirements of section 2.01(4) of Rev. Rul. 75–481, 1975–2 C.B. 188, shall be applicable with respect to such changes.

* * * * *

**Par. 2.** Section 1.415–2, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Adding a new sentence at the end of paragraph (b)(2)(i) and at the end of paragraph (b)(3); and

2. Revising paragraphs (d)(1)(i) and (d)(2)(i), adding a new sentence immediately preceding the last sentence of paragraph (d)(4), and adding new paragraphs (d)(7) and (d)(8) immediately following paragraph (d)(6).

These revised and added provisions read as follows:

*§ 1.415–2 Definitions and special rules.*

* * * * *

(b) *Limitation year.* * * *

(2) *Method of election to use a limitation year other than the calendar year or to change limitation year.* (i) * * * This requirement is satisfied if the election is made in connection with the adoption, by the employer, of the plan or any amendments to such plan.

* * * * *

(3) *Election of multiple limitation years.* * * * The rule described in this subparagraph also applies to a controlled group of employers (within the meaning of section 414 (b) or (c), as modified by section 415(h)).

* * * * *

(d) *Compensation*—(1) *Items includable as compensation.* * * *

(i) The participant's wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment with the employer maintaining the plan (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses).

* * * * *

(2) *Items not includable as compensation.* * * *

(i) Contributions made by the employer to a plan of deferred compensation to the extent that, before the application of the section 415 limitations to that plan, the contributions are not includable in the gross income of the employee for the taxable year in which contributed. In addition, employer contributions made on behalf of an employee to a simplified employee pension described in section 408(k) are not considered as compensation for the taxable year in which contributed to the extent such contributions are deductible by the employee under section 219(b)(7). Additionally, any distributions from a plan of deferred compensation are not considered as compensation for section 415 purposes, regardless of whether such amounts are includable in the gross income of the employee when distributed. However, any amounts received by an employee pursuant to an unfunded non-qualified plan may be considered as compensation for section 415 purposes in the year such amounts are includable in the gross income of the employee.

* * * * *

(4) *Election to use compensation accrued during limitation year.* * * * The written resolution requirement described in the preceding sentence is satisfied if the election is made in connection with the adoption, by the employer or employers, of the plan or any amendments to such plan. * * *

* * * * *

(7) *Special rule when section 403(b) annuity is aggregated with qualified plan of controlled employer.* If a section 403(b) annuity contract is combined or aggregated with a qualified plan of a controlled employer in accordance with either § 1.415–7(h)(2)(i) or § 1.415–8(d)(2), the following rules apply:

(i) In applying separately the limitations of section 415 (b) or (c) to the qualified plan and the limitations of section 415(c) and the exclusion allowance of section 403(b)(2)(A) to the section 403(b) annuity, compensation from the controlled employer may not be aggregated with compensation from the

employer purchasing the section 403(b) annuity.

(ii) However, in applying the limitations of section 415(c) in connection with the combining of the section 403(b) annuity with a qualified defined contribution plan or section 415(e) in connection with the aggregating of the section 403(b) annuity with a qualified defined benefit plan, the total compensation from both employers may be taken into account.

(8) *Safe harbor rule with respect to plan's definition of compensation.* If a plan defines compensation for purposes of applying the limitations of section 415 to include only those items specified in subparagraph (1)(i) of this paragraph and to exclude all those items listed in subparagraph (2) of this paragraph, if applicable, the plan will automatically be considered to be using a definition of compensation which satisfies section 415(c)(3) and these regulations.

**Par. 3.** Section 1.415–3, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Revising paragraphs (a)(1) and (a)(3);

2. Adding two sentences at the end of paragraph (b)(1)(i), redesignating paragraph (b)(3) as paragraph (b)(2) and deleting paragraph (b)(2);

3. Revising the last sentence of paragraph (c)(1)(i) and the first sentence of subdivision (iii) of Example (1) of paragraph (c)(3);

4. Revising the second sentence of paragraph (d)(1) and removing the word "projected" in the third and fifth sentence of the example under paragraph (d)(3);

5. Revising the last sentence of paragraph (e); and

6. Removing the word "projected" in paragraph (f)(1), redesignating paragraphs (f)(2), (f)(3) and (f)(4) as (f)(3), (4) and (5), adding a new paragraph (f)(2) and removing the word "projected" in the second sentence of Example (2) of paragraph (f)(5) (as redesignated).

These revised and added provisions read as follows:

*§ 1.415–3 Limitation for defined benefit plans.*

(a) *General rules*—(1) *Maximum limitations.* Under section 415(b) and this section, to satisfy the provisions of section 415(a) for any limitation year, the annual benefit (as defined in paragraph (b)(1)(i) of this section) to which a participant is entitled at any time under a defined benefit plan may not, during the limitation year, exceed the lesser of—

(i) $75,000, or

(ii) 100 percent of the participant's average compensation for his high 3 years of service. As required in § 1.415–1(d), in order to satisfy the limitations on benefits of this section, the plan provisions must preclude the possibility that any annual benefit exceeding these limitations will be payable at any time. Thus, a plan may fail to satisfy the limitations of this section even though no participant has actually accrued a benefit in excess of these limitations.

* * * * *

(3) *Average compensation for high 3 years of service.* For purposes of applying the limitation on benefits described in this section, a participant's high 3 years of service is the period of 3 consecutive calendar years (or, the actual number of consecutive years of employment for those employees who are employed for less than 3 consecutive years with the employer) during which the employee had the greatest aggregate compensation (as defined in § 1.415–2(d)) from the employer. For purposes of this subparagraph, in determining a participant's high 3 years, the plan may use any 12 month period instead of the calendar year provided that it is uniformly and consistently applied.

(b) *Definition of terms*—(1) *Annual benefit.* (i) * * * Additionally, in applying the limitations on benefits described in paragraph (a)(1) of this section to the annual benefit of a participant, it is immaterial if the participant works beyond the normal retirement age as determined under the terms of the plan. Thus, for example, if an individual, who is subject to the dollar limitation of section 415(b)(1)(A) ($110,625 for 1980), retires in 1980 after working past the plan's normal retirement age of 65, the plan may only provide such individual with an annual benefit of $110,625 in 1980 and not the actuarial equivalent of the amount the individual would have been entitled to receive at age 65 in order to comply with the section 415(b) limitations.

* * * * *

(c) *Adjustment where form of benefit is other than straight life annuity*—(1) *In general.* (i) * * * This adjustment is for purposes of applying the limitations on benefits described in paragraph (a)(1) of this section to the annual benefit of the participant.

* * * * *

(3) *Examples.* * * *

*Example (1).* * * *

(iii) Although 16% of the excess benefit attributable to the annuity provided by this plan may, consequently, be ignored (because this represents the value added to the 10 year certain and life annuity benefit by the joint and survivor feature), 10% of such excess benefit (the value added to the straight life annuity benefit by the 10 year certain feature) must be taken into account for purposes of adjusting the benefit under the plan to an actuarially equivalent straight life annuity. * * *

* * * * *

(d) *Employee contributions*—(1) *Mandatory contributions.* * * * The annual benefit attributable to mandatory contributions is determined by using the factors described in section 411(c)(2)(B) and the regulations thereunder, regardless of whether section 411 applies to that plan. * * *

* * * * *

(e) *Adjustment where benefit begins before age 55.* * * * This adjustment is only for purposes of applying the dollar limitation described in section 415(b)(1)(A) to the annual benefit of the participant.

(f) *Total annual benefits not in excess of $10,000.* * * *

(2) *Special rule with respect to participants in multiemployer plans.* The special $10,000 exception set forth in subparagraph (1) of this paragraph is applicable to a participant in a multiemployer plan described in section 414(f) without regard to whether that participant ever participated in one or more other plans maintained by an employer who also maintains the multiemployer plan, provided that none of such other plans were maintained as a result of collective bargaining involving the same employee representative as the multiemployer plan.

* * * * *

**Par. 4.** Section 1.415–4, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Removing the second sentence of paragraph (a);

2. Removing the terms "or projected annual benefit (whichever is applicable)" in the last sentence of paragraph (a) and in paragraph (b) (1) and (2); and

3. Revising paragraph (c)(2)(ii).

The revised provision reads as follows:

*§ 1.415–4 Transitional rule for defined benefit plans.*

* * * * *

(c) *Special rules.* * * *

(2) *Cost-of-living adjustments.* * * *

(ii) Any cost-of-living increase in the dollar limitation described in section 415(b)(1)(A) under section 415(d) and § 1.415–5(a) may be taken advantage of by an individual who is otherwise using the transitional rule set forth in this section. Thus, for example, if, due to cost-of-living increases under section 415(d) and § 1.415–5(a), the dollar limitation for 1981 is greater than $110,625, to the extent allowed under section 415(b), a plan may provide that an individual who is otherwise receiving a benefit of $110,625 per year under the transitional rule of this section, may receive the greater amount in 1981.

**Par. 5.** Section 1.415–5, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Adding a sentence at the end of paragraph (a)(3);

2. Adding two sentences at the end of paragraph (b)(1); and

3. Revising the last sentence of the example under paragraph (c)(2).

The added and revised provisions read as follows:

*§ 1.415–5 Cost of living adjustments for defined benefit plans.*

(a) *Dollar limitation.* * * *

(3) *Application of adjusted figure.* * * * However, for purposes of this subparagraph, the annual benefit payable to a terminated participant, which is otherwise limited by the dollar limitation, may only be increased in accordance with cost-of-living adjustments of

the dollar limitation if the plan specifically provides for such post-retirement adjustments.

(b) *Average compensation for high 3 years of service limitation*—(1) *In general.* * * * In the case of a participant who has separated from service prior to the first limitation year to which section 415 applies, the cost-of-living adjustment of the compensation limitation under this paragraph for all limitation years prior to the effective date of section 415 is to be determined as provided by the Commissioner. For purposes of the adjustment described in this subparagraph, the annual benefit payable to a terminated participant, which is otherwise limited by the compensation limitation, may only be increased in accordance with cost-of-living adjustments of the compensation limitation if the plan specifically provides for such post-retirement adjustments.

* * * * *

(c) *Automatic cost-of-living adjustments of dollar limitation.* * * *

(2) *Example.* * * *

*Example.* * * * The amendment providing for an automatic cost-of-living adjustment of the dollar limitation of Plan A is an example of a provision which satisfies the requirements of subparagraph (1) of this paragraph.

Par. 6. Section 1.415–6, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Revising the next to last sentence of paragraph (b)(2)(ii) and adding "for the limitation year when the contribution was otherwise required to have been made" at the end of the last sentence of paragraph (b)(2)(v);

2. Replacing the period at the end of subdivision (iii) of paragraph (b)(3) with a comma and adding a new subdivision (iv) immediately following that subdivision;

3. Revising paragraph (b)(5);

4. Revising so much of paragraph (b)(6) as precedes subdivision (i), adding a new subdivision (iv) immediately following subdivision (iii) of paragraph (b)(6) and adding a sentence immediately preceding the last sentence of paragraph (b)(6);

5. Revising paragraph (b)(7)(iii);

6. Revising the third to last sentence of Example (6) of paragraph (c);

7. Adding a sentence at the end of paragraph (e)(6)(i), revising the second sentence and the last sentence of paragraph (e)(6)(ii) and adding a new subdivision (iii) immediately following subdivision (ii) of paragraph (e)(6);

8. Revising the second sentence of Example (1) of paragraph (e)(7); and

9. Revising the second sentence of paragraph (g)(4)(i) and adding two sentences at the end of paragraph (g)(4)(i).

These revised and added provisions read as follows:

*§ 1.415–6 Limitation for defined contribution plans.*

* * * * *

(b) *Annual additions.* * * *

(2) *Employer contributions.* * * *

(ii) * * * For purposes of this subdivision, if the amount so contributed in the particular limitation year takes into account actual investment gains attributable to the period subsequent to the year to which the contribution relates, the portion of the total contribution which consists of such gains is not considered as an annual addition for any limitation year. * * *

* * * * *

(3) *Employee contributions.* * * *

(iv) The direct transfer of employee contributions from one qualified plan to another.

* * * * *

(5) *Forfeitures.* With respect to a particular limitation year, forfeitures (as well as any income attributable to the forfeiture) will be considered to be an annual addition to the plan if such forfeitures are allocated to the account of the participant as of any date within that limitation year.

(6) *Excess annual additions.* If as a result of the allocation of forfeitures, a reasonable error in estimating a participant's annual compensation, or under other limited facts and circumstances which the Commissioner finds justify the availability of the rules set forth in this subparagraph, the annual additions under the terms of a plan for a particular participant would cause the limitations of section 415 applicable to that participant for the limitation year to be exceeded, the excess amounts shall not be deemed annual additions in that limitation year if they are treated in accordance with any one of the following subdivisions:

* * * * *

(iv) Notwithstanding subdivision (i), (ii) or (iii) of this subparagraph, the plan may provide for the return of employee contributions (whether voluntary or mandatory), to the extent that the return would reduce the excess amounts in the participant's account. However, the return of mandatory employee contributions may result in discrimination in favor of employees who are officers, shareholders or highly compensated. If the plan does not provide for the return of gains attributable to the returned employee contributions, such earnings will be considered as an employee contribution for the limitation year in which the returned contribution was made. * * * To the extent that investment gains or other income or investment losses are allocated to the suspense account, the entire amount allocated to participants from the suspense account, including any such gains or other income or less any losses, is considered as the annual addition. * * *

(7) *Time when annual additions credited.* * * *

(iii) For purposes of this subparagraph, employee contributions, whether voluntary or mandatory, shall not be deemed credited to a participant's account for a particular limitation year, unless the contributions are actually made to the plan no later than 30 days after the close of that limitation year. However, in the case of employee contributions to an employee stock ownership plan which meets the requirements of either section 301 (d) of the Tax Reduction Act of 1975 (89 Stat. 38, 1.46–7) and the regulations thereunder (§ 1.46–6) or section 409A and the regulations thereunder, such contributions shall be deemed credited to a participant's account in the limitation year for which the contribution is allocated to that account under the terms of the plan, provided that the contributions, or pledges to make the contributions, are actually made no later than the period described in section 404 (a) (6) applicable to the taxable year with or within which the particular limitation year ends.

* * * * *

(c) *Examples.* * * *

*Example (6).* * * * However, under the rule set forth in paragraph (b) (7) (iii) of this section, employee contributions will not be considered credited to a participant's account for a particular limitation year for section 415 purposes unless the contributions are actually made to the plan no later than 30 days after the close of that limitation year. * * *

* * * * *

(e) *Special election for section 403(b) contracts purchased by educational organizations, hospitals and home health service agencies.* * * *

(6) *Time and method of making election.* (i) * * * However, an individual is only considered to have made an election for a taxable year when the use of one of the alternative limitations is necessary to support the exclusion from gross income reflected in the individual's income tax return for that taxable year.

(ii) * * * The first condition is that the election must be made (in the manner described in subdivision (i) of this subparagraph) in the individual's income tax return for the taxable year immediately following the taxable year in which final regulations under section 415 are published in the **Federal Register.** * * * See paragraph (e) (2) (v) of this section for rules relating to an individual who had taken advantage of an alternative limitation in prior taxable years under § 11.415 (c) (4)–1 (b) but does not elect any of the alternative limitations for the taxable year immediately following the taxable year in which final regulations under section 415 are published in the **Federal Register.**

(iii) This subdivision provides a special rule for those individuals who, in accordance with § 11.415 (c) (4)–1 (b), took advantage of one of the alternative limitations for prior taxable years, but who are not participating in a section 403 (b) annuity program in the taxable year following the taxable year in which final regulations under section 415 are published in the **Federal Register.** In such a situation, the election described in this paragraph to take advantage of an alternative limitation (or, alternatively, not to elect any of the alternative limitations) is made by the individual by attaching a statement to the income tax return for the taxable year following the taxable year in which final section 415 regulations are published in the

Federal Register. The statement must include the individual's name, address, Social Security number, the name of the section 403(b) annuity program in which the individual participated and a statement indicating the election being made. See paragraph (e)(2)(v) of this section for rules relating to the situation where the individual described in this subdivision chooses not to elect any of the alternative limitations.

(7) *Examples.* * * *

*Example (1).* * * * M is not in control of any employer within the meaning of section 414(b) or (c), as modified by section 415(h).

* * *

* * * * *

(g) *Special rules for employee stock ownership plans.* * * *

(4) *Cash contributions treated as contributions of employer securities.* * * *

(i) * * * However, this subdivision is not applicable unless the following two conditions are satisfied. The first condition is that the employer must contribute the cash to the plan no later than 30 days after the end of the period described in section 404(a)(6) applicable to the taxable year with or within which the particular limitation year ends. The second condition is that the employer securities must be purchased no later than 60 days after the end of the period described in the preceding sentence.

* * * * *

**Par. 7.** Section 1.415–7, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by: 1. Removing the term "§ 1.415–3(b)(2)" in the parenthesis in paragraphs (b)(1)(i) and (b)(1)(ii) and inserting in lieu thereof "subparagraph (3) of this paragraph" and by adding paragraph (b)(3) immediately following paragraph (b)(2);

2. Revising paragraph (c)(2)(ii);

3. Adding a sentence at the end of paragraph (d)(1);

4. Removing the term "1.415–3(b)(2)" in the parenthesis in the first sentence of Example (1)(ii) and in the second sentence of Example (3)(ii) of paragraph (e) and inserting in lieu thereof "paragraph (b)(3) of this section", and adding Example (4) immediately following Example (3) of paragraph (e);

5. Revising the first sentence of paragraph (f)(2)(i); and

6. Removing the term "at least" in the last sentence of paragraph (h)(2)(iii) and inserting in lieu thereof "more than", revising subdivision (ii) of paragraph (h)(4), revising the last three sentences of Example (1) of paragraph (h)(5) and revising Example (4) of such paragraph.

These revised and added provisions read as follows:

*§ 1.415–7 Limitation in Case of Defined Benefit and Defined Contribution Plan for Same Employee*

* * * * *

(b) *Defined benefit plan fraction.* * * *

(3) *Projected annual benefit.* For purposes of this section, a participant's "projected annual benefit" is equal to the annual benefit (as defined in § 1.415–3(b)(1)(i)) to which a participant in a defined benefit plan would be entitled under the terms of the plan based upon the following assumptions: (i) The participant will continue employment until reaching normal retirement age as determined under the terms of the plan (or current age, if that is later).

(ii) The participant's compensation for the limitation year under consideration will remain the same until the date the participant attains the age described in subdivision (i) of this subparagraph.

(iii) All other relevant factors used to determine benefits under the plan for the limitation year under consideration will remain constant for all future limitation years.

(c) *Defined contribution plan fraction.* * * *

(2) *Special rules for certain annuity contracts and individual retirement plans.* * * *

(ii) This subdivision provides a rule for computing the defined contribution plan fraction with respect to an individual on whose behalf a section 403(b) annuity has been purchased prior to commencing employment with an employer which the individual controls (within the meaning of section 414(b) or (c), as modified by section 415(h)) and which maintains a defined benefit plan. In this situation, the controlled employer is considered to be maintaining the section 403(b) annuity contract as a defined contribution plan under the rules of paragraph (h)(2)(i) of this section. However, for all years prior to commencing employment with the controlled employer, the individual does not have any years of service (within the meaning of subparagraph (1)(ii) of this paragraph) with that employer. Thus, for each limitation year in which such individual did not have a year of service with the controlled employer, the denominator of the defined contribution plan fraction applicable to the individual is deemed to equal the numerator of that fraction.

* * * * *

(d) *Special transitional rules for defined contribution plan fraction.* * * *

(1) * * * Thus, for example, if the aggregate amount of actual annual additions to the plan for all such limitation years is $500,000, while the aggregate amount in the denominator is $250,000, under the rule set forth in this subparagraph, the defined contribution plan fraction is $250,000 divided by $250,000, or 100 percent.

* * * * *

(e) *Examples.* * * *

*Examples (4).* (i) J is an employee of M Corporation and is the only participant in the defined contribution plan maintained by the corporation. M uses the calendar year as the limitation year for the plan. The current limitation year is 1980. For all limitation years prior to 1980, the maximum allowable contribution was made to the plan. Thus, J's defined contribution plan fraction as of the end of 1979 is 1.0 or 100 percent. In 1980, before any contributions had been made to the defined contribution plan, the defined contribution plan is converted into a defined benefit plan. The defined benefit plan provides a benefit in the form of a straight life annuity to 50% of a participant's compensation for the high 3 years of service, but not less than the amount purchasable by J's account balance. J's average compensation for the high 3 years is $50,000.

(ii) As a result of the conversion of the defined contribution plan into the defined benefit plan, J becomes subject to the 1.4 limitation of section 415(e) and this section because he has at one time participated in a defined contribution plan and has at one time participated in a defined benefit plan maintained by M. Although the defined contribution plan is no longer in existence, J must still take the defined contribution plan fraction into account. A defined contribution plan fraction must continue to be taken into account regardless of whether the plan has been converted into another plan or whether the plan is terminated and distributions are made to participants.

(iii) Even though J is subject to the limitations of section 415(e) and this section, in computing the defined benefit plan fraction, the special rule set forth in § 1.415–3(b)(1)(iv) is applicable based on the facts of this example. That rule provides that when there is a transfer of assets or liabilities from one qualified plan to another, the annual benefit attributable to the assets transferred does not have to be taken into account by the transferee plan in applying the limitations of section 415. (For purposes of section 415, a conversion of a defined contribution plan into a defined benefit plan is considered such a transfer.) Assume that one-half of J's annual benefit under the defined benefit plan is attributable to the assets transferred from the defined contribution plan. This means that by applying the special rule set forth in § 1.415–3(b)(1)(iv), only one-half of J's projected annual benefit must be taken into account in computing J's defined benefit plan fraction. Accordingly, because J's defined benefit plan fraction is only 25 percent (½ of 50% of high 3 years of compensation ($12,500) divided by 100% of high 3 years of compensation ($50,000)) and not 50 percent which would have been the case absent the special rule of § 1.415–3(b)(1)(iv), the 140 percent limitation of section 415(e) and this section is not violated.

(f) *Special rules where records are not available for past periods.* * * *

(2) *Defined contribution plan fraction for first limitation year to which section 415 applies to a plan.* * * *

(i) The numerator of the fraction is the sum of the participant's account balance as of the valuation date under the plan immediately preceding November 2, 1975, plus any additions to the participant's account made subsequent to that valuation date and through the end of the first limitation year to which section 415 applies to the plan. * * *

* * * * *

(h) *Special rules for section 403(b) annuity contracts.* * * *

(4) *Special rules relating to the aggregation of the annuity contract with a qualified plan.* * * *

(ii) Any contributions made to a section 403(b) annuity contract for a participant in any limitation year in which the rules of

paragraph (h)(2)(ii) of this section are applicable shall be taken into account in subsequent limitation years even though the rules of such paragraph are no longer applicable.

* * * * *

(5) *Examples.* * * *

*Example (1).* * * * Also, A is not in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h). For purposes of section 415, under subparagraph (1) of this paragraph, A is considered to have exclusive control of the annuity contract. Therefore, because A (and not the hospital) is treated as maintaining the annuity contract and because the hospital does not maintain any defined contribution plan, the limitations of section 415(e) and this section are not applicable to A for either the annuity contract or the hospital's defined benefit plan for the current limitation year.

* * * * *

*Example (4).* J is employed by a hospital which is described in section 501(c)(3) and exempt from tax under section 501(a). The hospital purchases an annuity contract described in section 403(b) on J's behalf for the current limitation year. The hospital does not maintain any qualified plans during that limitation year. However, for the limitation year, J is in control (within the meaning of section 414 (b) or (c), as modified by section 415(h)) of employer M. M maintains a qualified defined benefit plan during that limitation year. Under the special rules contained in subparagraph (2) of this paragraph, the annuity contract is treated as a defined contribution plan maintained by M (the controlled employer) as well as a defined contribution plan maintained by J. Therefore, because M is also maintaining a qualified defined benefit plan, the limitations of section 415(e) and this section are applicable to J for the annuity contract and the defined benefit plan maintained by M in the current limitation year.

* * * * *

**Par. 8.** Section 1.415–8, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by: 1. Revising paragraph (b);

2. Removing the term "at least" in the next to last sentence of paragraph (d)(2) and inserting in lieu thereof "more than";

3. Revising paragraph (f); and

4. Removing the word "projected" in the last sentence of Example (1) of paragraph (h).

These revised provisions read as follows:

*§ 1.415–8 Combining and Aggregating Plans*

* * * * *

(b) *Annual compensation taken into account where employer maintains more than one defined benefit plan.* If more than one qualified defined benefit plan is being aggregated under paragraph (a) of this section for a particular limitation year, in applying the defined benefit compensation limitation (as described in section 415(b)(1)(B)) to the annual benefit of a participant under each plan, the participant's high 3 years of compensation is determined in accordance with § 1.415–3(a)(3).

* * * * *

(f) *Special rules for combining certain plans, etc.* If a plan, annuity contract or arrangement is subject to a special limitation in addition to, or instead of, the regular limitations described in section 415 (b) or (c), and is combined under this section with a plan which is subject only to the regular section 415 (b) or (c) limitations, the following rules shall apply: (1) Each plan, annuity contract or arrangement which is subject to a special limitation must meet its own applicable limitation and each plan subject to the regular limitations of section 415 must meet its applicable limitation.

(2) The combined limitations shall be the larger of the applicable limitations.

* * * * *

**Par. 9.** Section 1.415–9, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by: 1. Revising paragraph (a)(2);

2. Revising the first sentence of paragraph (b)(2); and

3. Revising the third sentence of Example (1) of paragraph (c)(4).

These revised provisions read as follows:

*§ 1.415–9 Disqualification of plans and trusts*

(a) *In general.* * * *

(2) The annual benefit (as defined in § 1.415–3(b)(1)) of a participant in a qualified defined benefit plan maintained by the employer exceeds the limitations of section 415(b) and § 1.415–3.

* * * * *

(b) *Rules for disqualification of plans and trusts.* * * *

(2) *Single plan.* In the case of a single qualified defined benefit plan maintained by the employer that provides an annual benefit (as defined in § 1.415–3(b)(1)) in excess of the limitations of section 415(b) and § 1.415–3 for any particular limitation year, such plan is disqualified in that limitation year. * * *

* * * * *

(c) *Special rules concerning section 403(b) annuity contracts.* * * *

(4) *Examples.* * * *

*Example (1).* * * * Solely for the purpose of illustrating the rules set forth in this paragraph, assume that N is in control of the hospital within the meaning of section 414 (b) or (c), as modified by section 415(h). * * *

* * * * *

**Par. 10.** Section 1.415–10, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by: 1. Revising the first sentence of paragraph (a)(1); and

2. Revising paragraph (a)(3)(ii).

These revised provisions read as follows:

*§ 1.415–10 Special Aggregation Rules*

(a) *General rules relating to aggregation of plans during limitation year—*(1) *Scope of aggregation rules.* This section provides rules for those situations in which two or more existing plans, which previously were unaggregated, are aggregated during a particular limitation year on or after the effective date of section 415 and these regulations, and as a result, the limitations of section 415 (b), (c) or (e) are exceeded for that limitation year. * * *

* * * * *

(3) *Aggregation of additions of benefits.* * * *

(ii) The annual benefit or projected annual benefit (whichever is applicable) of a participant under a defined benefit plan prior to the aggregation of such plan shall be taken into account for purposes of applying the limitations of section 415(b) or section 415(e) to the aggregated plans.

* * * * *

This Treasury decision is issued under the authority contained in sections 415(j) and 7805 of the Internal Revenue Code of 1954 (88 Stat. 985, 68A Stat. 917; 26 U.S.C. 415(j) and 7805).

**William E. Williams,**

*Acting Commissioner of Internal Revenue.*

Approved: December 23, 1980.

**Emil M. Sunley,**

*Acting Assistant Secretary of the Treasury.*

**Paragraph 1.** Paragraph (a)(1) of § 1.401–2 is amended by adding a sentence at the end thereof. The new sentence reads as follows:

**§ 1.401–2 Impossibility of diversion under the trust instrument.**

(a) *In general.* (1) * * * For rules permitting reversion to the employer of amounts held in a section 415 suspense account, see § 1.401(a)–2(b).

* * * * *

**§ 1.401–8 [Redesignated as § 1.401(f)–1]**

**§ 1.401–8A [Redesignated as § 1.401–8 and amended]**

**Par. 2.** Present § 1.401–8 is redesignated as § 1.401(f)–1. Section 1.401–8A is redesignated as new § 1.401–8 and is amended by deleting the reference to "§ 1.401–8" in paragraph (a) and inserting in lieu thereof, "§ 1.401(f)–1".

**Par. 3.** The following new sections are added immediately before § 1.401(a)–11:

**§ 1.401(a)–1 Post-ERISA qualified plans and qualified trusts; in general.**

(a) *Introduction*—(1) *In general.* This section and the following regulation sections under section 401 reflect the provisions of section 401 after amendment by the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406) ("ERISA").

(2) [Reserved]

(b) *Requirements for pension plans*—(1) *Definitely determinable benefits.* (i) In order for a pension plan to be a qualified plan under section 401(a), the plan must be established and maintained by an employer primarily to

provide systematically for the payment of definitely determinable benefits to its employees over a period of years, usually for life, after retirement.

(ii) Section 1.401–1(b)(1)(i), a pre-ERISA regulation, provides rules applicable to this requirement, and that regulation is applicable except as otherwise provided.

(iii) The use of the type of plan provision described in § 1.415–1(d)(1) which automatically freezes or reduces the rate of benefit accrual or the annual addition to insure that the limitations of section 415 will not be exceeded, will not be considered to violate the requirements of this subparagraph provided that the operation of such provision precludes discretion by the employer.

(2) [Reserved]

**§ 1.401(a)–2 Impossibility of diversion under qualified plan or trust.**

(a) *General rule.* Section 401(a)(2) requires that in order for a trust to be qualified, it must be impossible under the trust instrument (in the taxable year and at any time thereafter before the satisfaction of all liabilities to employees or their beneficiaries covered by the trust) for any part of the trust corpus or income to be used for, or diverted to, purposes other than for the exclusive benefit of those employees or their beneficiaries. Section 1.401–2, a pre-ERISA regulation, provides rules under section 401(a)(2) and that regulation is applicable except as otherwise provided.

(b) *Section 415 suspense account.* Paragraph (a) of this section does not apply to amounts properly allocated to a suspense account pursuant to § 1.415–6(b)(6). The plan, or the trust forming part of the plan, may provide for the reversion to the employer, upon termination of the plan, of amounts held in the suspense account.

**Par. 4.** The following new section is added immediately after § 1.401(a)–15:

**§ 1.401(a)–16 Limitations on benefits and contributions under qualified plans.**

A trust will not be a qualified trust and a plan will not be a qualified plan if the plan provides for benefits or contributions which exceed the limitations of section 415. Section 415 and the regulations thereunder provide rules concerning these limitations on benefits and contributions.

**Par. 5.** Section 1.401(f)–1 as redesignated in paragraph 2 is amended by (1) deleting the reference to "§ 1.401–8A" in paragraph (a) and inserting in lieu thereof "§ 1.401–8" and (2) redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e). New paragraph (e) reads as follows:

**§ 1.401(f)–1 Certain custodial accounts and annuity contracts.**

* * * * *

(e) *Other contracts.* For purposes of this section, other than the non-transferability restriction of paragraph (d)(2), a contract issued by an insurance company qualified to do business in a state shall be treated as an annuity contract. For purposes of the preceding sentence, the contract does not include a life, health or accident, property, casualty or liability insurance contract. For purposes of this paragraph, a contract which is issued by an insurance company will not be considered a life insurance contract merely because the contract provides incidental life insurance protection. The provisions of this paragraph are effective for taxable years beginning after December 31, 1975.

(f) *Cross reference.* * * *

**Par. 6.** Paragraph (b)(3) of 1.403(b)–1 is amended by (1) revising the fourth sentence of subdivision (i), (2) redesignating subdivision (ii) and subdivision (iii) and revising so much thereof as precedes the example, and (3) adding a new subdivision (ii) following subdivision (i). These revised and added provisions read as follows:

**§ 1.403(b)–1 Taxability of beneficiary under annuity purchased by a section 501(c)(3) organization or public school.**

* * * * *

(b) *Amounts paid by employer during taxable years beginning after December 31, 1957.* * * *

(3) *Agreement to take a reduction in salary or to forego an increase in salary.* (i) * * * Except as provided in subdivision (ii) of this subparagraph, the employee must not be permitted to make more than one agreement with the same employer during any taxable year of such employee beginning after December 31, 1963; the exclusion provided by this paragraph shall not apply to any amounts which are contributed under any further agreement made by such employee during the same taxable year beginning after such date. * * *

(ii) An individual who is employed by an organization described in section 415(c)(4) may make a salary reduction agreement for his taxable year beginning in 1976 or 1977 at any time before the end of the 1976 or 1977 taxable year, respectively, without the agreement's being considered a new agreement within the meaning of this subparagraph. The agreement for 1976 may be made on or before June 15, 1977, and the agreement for 1977 may be made on or before April 17, 1978. This special rule only applies if the individual makes a statement of intention in accordance with § 11.415(c)(4)–1(b) electing, or determines his income tax liability for the taxable year in a way which is consistent with, one of the alternative limitations under section 415(c)(4) for 1976 or 1977 (as the case may be). The salary reduction agreement for 1976 may be made effective with respect to any amount earned during the taxpayer's most recent one-year period of service (as defined in paragraph (f) of this section) ending not later than the end of the 1976 taxable year, notwithstanding subdivision (i) of this subparagraph. Similarly, the salary reduction agreement for 1977 may be made effective with respect to such period of service ending not later than the end of the 1977 taxable year. If the salary reduction agreement for 1976 is entered into at any time after December 31, 1976, or if the salary reduction agreement for 1977 is entered into at any time after December 31, 1977, an amended Form W–2 must be filed on behalf of the individual.

(iii) The rules of subdivision (i) of this subparagraph may be illustrated by the following example:

* * * * *

**Par. 7.** Paragraph (d) of § 1.403(b)–1 is amended by (1) deleting the period at the end of subparagraph (3)(iv)(*c*) and inserting in lieu thereof "; or"; (2) adding a new subdivision (v) following subdivision (iv) of subparagraph (3); and (3) adding a new subparagraph (5) at the end thereof. The added provisions read as follows:

**§ 1.403(b)–1 Taxability of beneficiary under annuity purchased by a section 501(c)(3) organization or public school.**

* * * * *

(d) *Exclusion allowance.* * * *

(3) *Amounts previously contributed by the employer which were excludable from the employee's gross income.* * * *

(v) Which were contributions to a section 403(b) annuity contract for a prior taxable year and which exceeded the limitations of section 415(c)(1) applicable to the employee. See § 1.415–6(e)(1)(ii) for a more detailed discussion of this rule. See also § 1.415–9(c) for rules relating to the treatment of certain contributions to a section 403(b) annuity contract which are excess contributions because of the aggregation of the annuity contract with a qualified plan.

* * * * *

(5) *Election to have allowance determined under section 415 rules.* Under section 415(c)(4)(D), an employee may elect to have the provisions of

section 415(c)(4)(C) (relating to special limitations for annuity contracts purchased by educational organizations, hospitals and home health service agencies) apply for a taxable year. If the employee so elects, his exclusion allowance is the maximum amount under section 415 that could be contributed by the employer for the benefit of the employee if the annuity contract for the benefit of the employee were treated as a defined contribution plan maintained by the employer. Thus, the exclusion allowance for the taxable year of an employee who makes the election may not exceed the limitation on contributions and other additions (as described in § 1.415–6) applicable to the employee for that taxable year. See § 1.415–7 for provisions applicable in the event an employer maintains a defined benefit plan and a defined contribution plan for the same employee. See § 1.415–8 for provisions applicable in the event an employer maintains more than one defined contribution plan covering the same employee.

* * * * *

**§ 1.405–1(b)(1) [Amended]**

Par. 8. Section 1.405–1(b)(1) is amended by deleting "and (8)" in the third sentence and inserting in lieu thereof "(8), (16), and (19)".

Par. 9. The following new §§ 1.415–1 through 1.415–10 are added at the appropriate place:

**§ 1.415–1 General rules with respect to limitations on benefits and contributions under qualified plans.**

(a) *Trusts.* Under sections 415 and 401(a)(16), a trust which forms part of a pension, profit-sharing or stock bonus plan will not be qualified under section 401(a) if any one of the following conditions exists:

(1) The annual benefits under a defined benefit plan with respect to any participant for any limitation year exceed the limitations of section 415(b) and § 1.415–3.

(2) The contributions and other additions credited under a defined contribution plan with respect to any participant for any limitation year exceed the limitations of section 415(c) and § 1.415–6.

(3) Where an individual has at any time participated in a defined benefit plan and also has at any time participated in a defined contribution plan maintained by the same employer, the trust has been disqualifed under section 415(g) and § 1.415–9.

(b) *Certain annuities and accounts*—(1) *In general.* Except as provided in paragraph (c) of this section, an annuity, account, etc., listed in section 415(a)(2) will not be considered to be described in the otherwise applicable section unless—

(i) It satisfies the requirements of § 1.415–3 (relating to limitations on benefits), § 1.415–6 (relating to limitations on contributions and other additions) or § 1.415–7 (relating to limitations where an individual has at any time participated in a defined contribution plan and also has at any time participated in a defined benefit plan maintained by the same employer), whichever is applicable, and

(ii) It has not been disqualifed under § 1.415–9 (relating to disqualification of plans and trusts).

(2) *Special rule for section 403(b) annuity contracts.* (i) With respect to an annuity contract described in section 403(b), the provisions of subparagraph (1) of this paragraph apply only to that portion of the contract which exceeds the limitations of § 1.415–3, § 1.415–6 and § 1.415–7, whichever is applicable.

(ii) In addition, where the amount of the contribution under the section 403(b) annuity contract exceeds the applicable limitation, the exclusion allowance described in section 403(b)(2)(A) is reduced in the manner described in § 1.415–6(e)(1)(ii).

(3) *Cross references to additional rules for section 403(b) annuity contracts.* For additional rules relating to section 403(b) annuity contracts, see—

(i) Section 1.415–1(f)(2) (relating to the plan year for such annuity contracts),

(ii) Section 1.415–2(b)(7) (relating to the limitation year for such annuity contracts),

(iii) Section 1.415–6(e) (relating to the applicability of the alternative limitations described in section 415(c)(4) to such annuity contracts),

(iv) Sections 1.415–7(c)(2) and 1.415–7(h) (relating to rules for such annuity contracts for purposes of computing the defined contribution plan fraction),

(v) Section 1.415–8(d) (relating to rules for such annuity contracts for purposes of combining plans), and

(vi) Section 1.415–9(c) (relating to rules for such annuity contracts for purposes of determining the amount of a disqualified contribution to the annuity contract).

(c) *Certain accounts, annuities and bonds established for non-employed spouse.* Paragraph (b) of this section is not applicable to an account, annuity or bond as described in section 408(a), 408(b) or 409, respectively established for the benefit of the spouse of the individual who contributes to it for any year for which a deduction is allowable for the individual under section 220. For a special effective date with respect to this paragraph, see paragraph (f)(3) of this section.

(d) *Plan provisions*—(1) *In general.* Although no specific plan provision is required under section 415 in order for a plan to establish or maintain its qualification, the plan provisions must preclude the possibility that the limitations imposed by section 415 will be exceeded. For example, a plan may include provisions which automatically freeze or reduce the rate of benefit accrual (in the case of a defined benefit plan) or the annual addition (in the case of a defined contribution plan) to a level necessary to prevent the limitations from being exceeded with respect to any participant. For rules relating to this type of plan provision and the definitely determinable benefit requirement for pension plans, see § 1.401(a)–1(b)(1).

(2) *Special rule for profit-sharing and stock bonus plans.* The use of a plan provision by a profit-sharing or stock bonus plan which automatically freezes or reduces the amount of annual additions to insure that the limitations of section 415 will not be exceeded must comply with the requirement set forth in § 1.401–1(b)(1) (ii) and (iii) that such plans provide a definite predetermined formula for allocating the contributions made to the plan among the participants. Thus, if the operation of this provision involves discretionary action on the part of the employer, the definite predetermined allocation formula requirement will be violated. For example, if two defined contribution plans of one employer otherwise provide for aggregate contributions which may exceed the limits of section 415(c), the plan provisions must specify (without involving employer discretion) which plan will reduce contributions and allocations to prevent an excess annual addition and how the reduction will occur.

(e) *Rules for plans maintained by more than one employer*—(1) *Plans described in section 413(b) or section 413(c).* This subparagraph provides for participants of a plan described in section 413(c) or section 413(b) (other than a plan described in section 414(f)). For purposes of applying the limitations of section 415 with respect to a participant of an employer maintaining the plan, benefits or contributions attributable to such participant from all of the employers maintaining the plan must be taken into account. Furthermore, in applying the limitations of section 415 with respect to such a participant, the total compensation received by the participant from all of the employers maintaining the plan may be taken into account.

(2) *Plans described in section 414(f).* (i) This subparagraph provides rules for participants of a multiemployer plan described in section 414(f). For purposes of applying the limitations of section 415 with respect to a participant of an employer maintaining the plan, only the benefits or contributions provided by the employer of such participant shall be taken into account. The benefits provided by an employer under such a plan shall equal the excess of the plan benefit over the plan benefit computed as if the participant had no covered service with that employer.

(ii) As an alternative to applying the limitations of section 415 with respect to a participant of an employer maintaining the multiemployer plan in the manner described in subdivision (i) of this subparagagph, the rules described in subparagraph (1) of this paragraph may be used for purposes of applying the section 415 limitations in connection with that participant.

(iii) For rules relating to the limitation year for a multiemployer plan, see § 1.415–2(b)(6). See also § 1.415–8(e) for a special rule relating to the aggregation of multiemployer plans.

(f) *Rules relating to the effective date of section 415*—(1) *In general.* Except as otherwise provided in this paragraph, §§ 1.415–1 through 1.415–10 are applicable for plan years beginning after 1975 and for limitation years ending with or within plan years beginning after 1975. However, for all such plan years and limitation years through the plan year beginning before January 7, 1981, a reasonable interpretation of the rules set forth in section 415 of the Code and in Rev. Rul. 75–481, 1975–2 C.B. 188, may be relied upon.

(2) *Plan year for certain annuity contracts and individual retirement plans.* For purposes of section 415 and §§ 1.415–1 through 1.415–10—

(i) An annuity contract described in section 403(b) shall be considered to have a plan year coinciding with the taxable year of the individual on whose behalf the contract has been purchased, and

(ii) An individual retirement plan (as described in section 7701(a)(37)) shall be considered to have a plan year coinciding with the taxable year of the individual on whose behalf the plan is maintained,

unless the individual demonstrates to the satisfaction of the Commissioner that a different 12 month period should be considered to be the plan year.

(3) *Special effective date for certain accounts, annuities and bonds established for non-employed spouse.* Nothwithstanding subparagraph (1) of this paragraph, the provisions of section 415(a)(3) and paragraph (c) of this section are not applicable until taxable years beginning after December 31, 1976.

(4) *Special rules for certain defined contribution plans with respect to the first limitation year to which section 415 applies.* In the case of a defined contribution plan whose plan year does not coincide with the limitation year, the rules of this subparagraph shall be effective with respect to applying the limitations described in section 415(c) and § 1.415–6 for the first limitation year to which section 415 and §§ 1.415–1 through 1.415–10 apply.

(i) Annual additions (as defined in section 415(c)(2) and § 1.415–6(b)) which are allocated under the plan prior to the first day of the first plan year to which section 415 and §§ 1.415–1 through 1.415–10 are effective do not have to be taken into account.

(ii) The amount of compensation (as defined in § 1.415–2(d)) taken into account in applying the limitations may include compensation for the entire limitation year.

(5) *Special effective date for special benefit limitation with respect to certain collectively bargained plans.* Notwithstanding subparagraph (1) of this paragraph, section 415(b)(7) is not applicable until limitation years beginning after December 31, 1978.

(6) *Special effective date for excess contributions to section 403(b) annuity contracts.* (i) Notwithstanding subparagraph (1) of this paragraph, the provisions of § 1.415–6(e)(1)(ii) (relating to the manner in which contributions to a section 403(b) annuity contract which exceed the limitations of section 415(c)(1) are treated) are only applicable to taxable years beginning after January 24, 1980.

(ii) For all prior taxable years for which the limitations of section 415 are applicable to section 403(b) annuity contracts, any contribution to the account of an individual under a section 403(b) annuity contract for a taxable year which exceeds the limitations of section 415(c)(1), instead of being treated in the manner described in § 1.415–6(e)(1)(ii), shall reduce the exclusion allowance under section 403(b)(2) for such taxable year to the extent of the excess.

(7) *Special effective date for rules relating to change of limitation year.* Notwithstanding subparagraph (1) of this paragraph, the provisions of § 1.415–2(b)(4) (relating to the effect of a change of the limitation year) are required to be applied only for changes in limitation years which occur after January 7, 1981. These provisions may also be used for all prior changes in limitation years. However, if the provisions of § 1.415–2(b)(4) are not used for changes in limitation years which occur prior to January 7, 1981, the requirements of § 2.01(4) of Rev. Rul. 75–481, 1975–2 C.B. 188, shall be applicable with respect to such changes.

(8) *Special effective date for TRASOP's.* The limitations of section 415 apply to an Employee Stock Ownership Plan under section 301(d) of the Tax Reduction Act of 1975 ("TRASOP"). The earliest date on which the first plan year of a TRASOP may begin is January 22, 1974. Therefore, notwithstanding subparagraph (1) of this paragraph, the limitations of section 415 are applicable for TRASOP plan years beginning before 1975 and for limitation years ending with or within plan years beginning before 1975. However, the aggregation rules of § 1.415–8 do not apply to a limitation year of a TRASOP ending with or within a plan year beginning before 1975.

(9) *Transitional rules.* For special transitional rules, see—

(i) Section 1.415–4 (relating to a transitional rule for defined benefit plans),

(ii) Section 1.415–7(b)(2) (relating to the defined benefit plan fraction applicable to certain participants),

(iii) Section 1.415–7(d) (relating to transitional rules for the defined contribution plan fraction), and

(iv) Section 1.415–7(g) (relating to a special rule for certain plans in effect on September 2, 1974).

(g) *Supersession.* Section 11.415(c)(4)–1 (relating to special elections for section 403(b) annuity contracts purchased by educational organizations, hospitals and home health service agencies) of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 is superseded by this section and §§ 1.415–2 through 1.415–10.

**§ 1.415–2 Definitions and special rules.**

(a) *General application.* Unless otherwise provided in the appropriate section, for purposes of §§ 1.415–1 through 1.415–10, the following definitions and special rules shall apply.

(b) *Limitation year*—(1) *In general.* (i) Unless the election described in subdivision (ii) of this subparagraph is made, the limitation year, with respect to any qualified plan maintained by the employer, is the calendar year.

(ii) Instead of using the calendar year, an employer may elect to use any other consecutive twelve month period as the limitation year. This includes a fiscal year with an annual period varying from 52 to 53 weeks, so long as the fiscal year satisfies the requirements of section

441(f). If the case of a group of employers which constitute either a controlled group of corporations (within the meaning of section 414(b) as modified by section 415(h)) or trades or businesses (whether or not incorporated) which are under common control (within the meaning of section 414(c) as modified by section 45(h)), the election to use a consecutive twelve month period other than the calendar year as the limitation year must be made by all members of the group that maintain a qualified plan.

(2) *Method of election to use a limitation year other than the calendar year or to change limitation year.* (i) The election described in subparagraph (1)(ii) of this paragraph shall be made by the adoption of a written resolution by the employer. This requirement is satisfied if the election is made in connection with the adoption, by the employer, of the plan or any amendments to such plan.

(ii) This resolution will not be considered a change of the limitation year, if it is adopted or modified on or before the later of the adoption date of the first amendment conforming an existing plan to the Employee Retirement Income Security Act of 1974, or December 31, 1976.

(3) *Election of multiple limitation years.* Any employer that maintains more than one qualified plan may elect to use different limitation years for each such plan in accordance with rules determined by the Commissioner. The rule described in this subparagraph also applies to a controlled group of employers (within the meaning of section 414 (b) or (c), as modified by section 415(h)).

(4) *Effect of change of limitation year.* (i) Once established, the limitation year may be changed only by making the election in the manner described in subparagraph (2) of this paragraph.

(ii) Any change in the limitation year must be a change to a twelve-month period commencing with any day within the current limitation year.

(iii) For purposes of this paragraph, the limitations of section 415 are to be applied in the normal manner to the new limitation year. Moreover, the limitations of section 415 are to be separately applied to a "limitation period" which begins with the first day of the current limitation year and which ends on the day before the first day of the first limitation year for which the change is effective. The dollar limitation with respect to this limitation period is determined by multiplying (A) the applicable dollar limitation for the calendar year in which the limitation period ends by (B) a fraction, the numerator of which is the number of months (including any fractional parts of a month) in the limitation period, and the denominator of which is 12. This adjustment of the dollar limitation only applies to a defined contribution plan.

(iv) For a special effective date with respect to this paragraph, see § 1.415–1(f)(7).

(v) The provisions of this subparagraph may be illustrated by the following example:

*Example.* In 1981, an employer with a qualified defined contribution plan using the calendar year as the limitation year elects to change the limitation year to a period beginning July 1 and ending June 30. Because of this change, the plan must satisfy the limitations of section 415(c) for the limitation period beginning January 1, 1981 and ending June 30 of that year. In applying the limitations of section 415(c) to this limitation period, the amount of compensation taken into account may only include compensation for this period. Furthermore, the dollar limitation for this period is the otherwise applicable dollar limitation for calendar year 1981, multiplied by $\frac{6}{12}$.

(5) *Limitation year for years prior to effective date.* The limitation year for all years prior to the effective date of section 415 is the consecutive twelve-month period which corresponds to the first limitation year of a plan after the effective date of section 415. (See paragraph (b)(1) of this section for rules relating to the determination of a plan's limitation year.)

(6) *Limitation year for multiemployer plans.* In the case of a multiemployer plan (as defined in section 414(f)), the limitation year is the calendar year unless the plan administrator elects otherwise under paragraph (b)(2) of this section.

(7) *Limitation year for individuals on whose behalf section 403(b) annuity contracts have been purchased.* (i) The limitation year of an individual on whose behalf a section 403(b) annuity contract has been purchased by an employer is determined in the following manner.

(ii) If the individual is not in control (within the meaning of section 414 (b) or (c) as modified by section 415(h)) of any employer, the limitation year is the calendar year. However, the individual may elect to change the limitation year to another twelve-month period. To do this, the individual must attach a statement to his income tax return filed for the taxable year in which the change is made. Any change in the limitation year must comply with the rules set forth in paragraph (b)(4) of this section.

(iii) If the individual is in control (within the meaning of section 414 (b) or (c) as modified by section 415(h)) of an employer, the limitation year is to be the limitation year of that employer.

(8) *Limitation year for individuals on whose behalf individual retirement plans are maintained.* The limitation year of an individual on whose behalf an individual retirement plan (as described in section 7701(a)(37)) is maintained shall be determined in the manner described in paragraph (b)(7) of this section.

(c) *Defined benefit and defined contribution plan*—(1) *Defined benefit plan.* A "defined benefit plan" means a plan described in section 414(j).

(2) *Defined contribution plan.* A "defined contribution plan" means a plan described in section 414(i). It includes a money purchase pension plan (as described in § 1.401–1(b)(1)(i)), such as a target benefit plan (as described in § 1.410(a)–4(a)(1)). A hybrid plan (as defined in section 414(k)) is to be treated as a defined contribution plan to the extent that benefits payable under the plan are based upon the individual account of the participant.

(d) *Compensation*—(1) *Items includable as compensation.* For purposes of applying the limitations of section 415, the term "compensation" includes—

(i) The participant's wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment with an employer maintaining the plan (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses).

(ii) In the case of a participant who is an employee within the meaning of section 401(c)(1) and the regulations thereunder, the participant's earned income (as described in section 401(c)(2) and the regulations thereunder).

(iii) For purposes of subdivisions (i) and (ii) of this subparagraph, earned income from sources outside the United States (as defined in section 911(b)), whether or not excludable from gross income under section 911 or deductible under section 913.

(iv) Amounts described in sections 104(a)(3), 105(a) and 105(h), but only to the extent that these amounts are includable in the gross income of the employee.

(v) Amounts described in section 105(d), whether or not these amounts are excludable from the gross income of the employee under that section.

(vi) Amounts paid or reimbursed by the employer for moving expenses incurred by an employee, but only to the extent that these amounts are not

deductible by the employee under section 217.

(vii) The value of a non-qualified stock option granted to an employee by the employer, but only to the extent that the value of the option is includable in the gross income of the employee for the taxable year in which granted.

(viii) The amount includable in the gross income of an employee upon making the election described in section 83(b).

(2) *Items not includable as compensation.* The term "compensation" does not include items such as—

(i) Contributions made by the employer to a plan of deferred compensation to the extent that, before the application of the section 415 limitations to that plan, the contributions are not includable in the gross income of the employee for the taxable year in which contributed. In addition, employer contributions made on behalf of an employee to a simplified employee pension described in section 408(k) are not considered as compensation for the taxable year in which contributed to the extent such contributions are deductible by the employee under section 219(b)(7). Additionally, any distributions from a plan of deferred compensation are not considered as compensation for section 415 purposes, regardless of whether such amounts are includable in the gross income of the employee when distributed. However, any amounts received by an employee pursuant to an unfunded non-qualified plan may be considered as compensation for section 415 purposes in the year such amounts are includable in the gross income of the employee.

(ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by an employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture (see section 83 and the regulations thereunder).

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option.

(iv) Other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includable in the gross income of the employee), or contributions made by an employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in section 403(b) (whether or not the contributions are excludable from the gross income of the employee).

(3) *Compensation in limitation year.* The compensation (as defined in subparagraph (1) of this paragraph) actually paid or made available to a participant within the limitation year is the compensation used for purposes of applying the limitations of section 415.

(4) *Election to use compensation accrued during limitation year.* Instead of using the compensation actually paid or made available to a participant during the limitation year, an employer may elect to use the compensation accrued for an entire limitation year for purposes of applying the limitations of section 415. In the case of a group of employers which constitute either a controlled group of corporations (within the meaning of section 414(b) as modified by section 415(h)) or trades or businesses (whether or not incorporated) which are under common control (within the meaning of section 414(c) as modified by section 415(h)), the election to use accrued compensation must be made by all members of the group that maintain a qualified plan. Once an election is made, it remains in effect until it is revoked by the employer or group of employers. The election is made or revoked by the adoption of a written resolution by the employer or group of employers. The written resolution requirement described in the preceding sentence is satisified if the election is made in connection with the adoption, by the employer, or employers, of the plan or any amendments to such plan. The rule described in this subparagraph does not apply to a section 403(b) annuity contract or to an individual retirement plan (as described in section 7701(a)(37)).

(5) *Effect of change in method of determining compensation.* If, in a particular limitation year, a previously effective election to use accrued compensation is revoked or an election to use accrued compensation is made, any amounts taken into account for compensation purposes for any preceding limitation year may not be counted again in determining compensation for the particular limitation year.

(6) *Special rule for employees of controlled group of corporations or trades or businesses under common control.* In the case of an employee of two or more corporations which are members of a controlled group of corporations (as defined in section 414(b) as modified by section 415(h)), the term "compensation" for such employee includes compensation from all employers which are members of the group, regardless of whether the employee's particular employer has a qualified plan. This special rule is also applicable to an employee of two or more trades or businesses (whether or not incorporated) which are under common control (as defined in section 414(c) as modified by section 415(h)).

(7) *Special rule when section 403(b) annuity is aggregated with qualified plan of controlled employer.* If a section 403(b) annuity contract is combined or aggregated with a qualified plan of a controlled employer in accordance with either § 1.415–7(h)(2)(i) or § 1.415–8(d)(2), the following rules apply:

(i) In applying separately the limitations of section 415 (b) or (c) to the qualified plan and the limitations of section 415(c) and the exclusion allowance of section 403(b)(2)(A) to the section 403(b) annuity, compensation from the controlled employer may not be aggregated with compensation from the employer purchasing the section 403(b) annuity.

(ii) However, in applying the limitations of section 415(c) in connection with the combining of the section 403(b) annuity with a qualified defined contribution plan or section 415(e) in connection with the aggregating of the section 403(b) annuity with a qualified defined benefit plan, the total compensation from both employers may be taken into account.

(8) *Safe harbor rule with respect to plan's definition of compensation.* If a plan defines compensation for purposes of applying the limitations of section 415 to include only those items specified in subparagraph (1)(i) of this paragraph and to exclude all those items listed in subparagraph (2) of this paragraph, if applicable, the plan will automatically be considered to be using a definition of compensation which satisfies section 415(c)(3) and these regulations.

**§ 1.415–3 Limitations for defined benefit plans.**

(a) *General rules.*—(1) *Maximum limitations.* Under section 415(b) and this section, to satisfy the provisions of section 415(a) for any limitation year, the annual benefit (as defined in paragraph (b)(1)(i) of this section) to which a participant is entitled at any time under a defined benefit plan may not, during the limitation year, exceed the lesser of—

(i) $75,000, or

(ii) 100 percent of the participant's average compensation for his high 3 years of service.

As required in § 1.415–1(d), in order to satisfy the limitations on benefits of this section, the plan provisions must preclude the possibility that any annual benefit exceeding these limitations will

be payable at any time. Thus, a plan may fail to satisfy the limitations of this section even though no participant has actually accrued a benefit in excess of these limitations.

(2) *Adjustment to dollar limitation.* The dollar limitation described in section 415(b)(1)(A) and paragraph (a)(1)(i) of this section is adjusted for cost of living increases under section 415(d) and § 1.415–5(a). The adjusted figure is effective as of January 1 of each calendar year and is applicable to limitation years that end during that calendar year.

(3) *Average compensation for high 3 years of service.* For purposes of applying the limitation on benefits described in this section, a participant's high 3 years of service is the period of 3 consecutive calendar years (or, the actual number of consecutive years of employment for those employees who are employed for less than 3 consecutive years with the employer) during which the employee had the greatest aggregate compensation (as defined in § 1.415–2(d)) from the employer. For purposes of this subparagraph, in determining a participant's high 3 years, the plan may use any 12 month period instead of the calendar year provided that it is uniformly and consistently applied.

(b) *Definitions of terms*—(1) *Annual benefit.* (i) The term "annual benefit" means a benefit which is payable annually in the form of a straight life annuity under a plan. Such benefit does not include any benefits attributable to either employee contributions or rollover contributions (as defined in sections 402(a)(5), 403(a)(4), 408(d)(3) and 409(b)(3)(C)). Additionally, in applying the limitations on benefits described in paragraph (a)(1) of this section to the annual benefit of a participant, it is immaterial if the participant works beyond the normal retirement age as determined under the terms of the plan. Thus, for example, if an individual, who is subject to the dollar limitation of section 415(b)(1)(A) ($110,625 for 1980), retires in 1980 after working past the plan's normal retirement age of 65, the plan may only provide such individual with an annual benefit of $110,625 in 1980 and not the actuarial equivalent of the amount the individual would have been entitled to receive at age 65 in order to comply with the section 415(b) limitations.

(ii) If the plan provides for a benefit which is not payable in the form of a straight life annuity, the benefit is adjusted in accordance with paragraph (c) of this section for purposes of applying the limitations on benefits described in paragraph (a)(1) of this section.

(iii) If rollover contributions are made to the plan, the annual benefit attributable to these contributions is determined on the basis of reasonable actuarial assumptions. See paragraph (d) of this section for rules relating to employee contributions.

(iv) For purposes of this paragraph, when there is a transfer of assets or liabilities from one qualified plan to another, the annual benefit attributable to the assets transferred does not have to be taken into account by the transferee plan in applying the limitations of section 415. The annual benefit payable on account of the transfer for any individual that is attributable to the assets transferred will be equal to the annual benefit transferred on behalf of such individual multiple by a fraction, the numerator of which is the total assets transferred and the denominator of which is the total liabilities transferred.

(2) *Retirement benefit.* For purposes of this section, the term "retirement benefit" means a benefit provided under the terms of a defined benefit plan which is subject to the limitations of section 415(b) and this section.

(c) *Adjustment where form of benefit is other than straight life annuity*—(1) *In general.* (i) Where a defined benefit plan provides a retirement benefit in any form other than a straight life annuity, the plan benefit is adjusted to a straight life annuity beginning at the same age which is the actuarial equivalent of such benefit in accordance with rules determined by the Commissioner. This adjustment is for purposes of applying the limitations on benefits described in paragraph (a)(1) of this section to the annual benefit of the participant.

(ii) Examples of benefits that are not in the form of a straight life annuity are an annuity which includes a post-retirement death benefit and an annuity providing for a guaranteed number of payments.

(2) *Certain beneifts to which no adjustment is required.* For purposes of the adjustment described in subparagraph (1) of this paragraph, the following values are not taken into account:

(i) The value of a qualified joint and survivor annuity (as defined in section 401(a)(11)(G)(iii) and the regulations thereunder) provided by the plan to the extent that such value exceeds the sum of (A) the value of a straight life annuity beginning on the same date and (B) the value of any post-retirement death benefits which would be payable even if the annuity was not in the form of a joint and survivor annuity.

(ii) The value of benefits that are not directly related to retirement benefits (such as pre-retirement disability and death benefits and post-retirement medical benefits).

(iii) The value of benefits provided by the plan which reflect post-retirement cost of living increases to the extent that such increases are in accordance with section 415(d) and § 1.415–5.

(3) *Examples.* The provisions of subparagraph (2)(i) of this paragraph may be illustrated by the following examples:

*Example (1).* (i) Corporation ABC maintains a defined benefit plan that provides a benefit in the form of a joint and 100% suvivor annuity with a 10 year certain feature. The value of this benefit is equal to 126% of the value of the same amount payable as a straight life annuity beginning on the same date. If the benefit were payable in the form of a joint and 100% survivor annuity, without a 10 year certain feature, its value would be equal to only 123% of the value of the same amount payable as a straight life annuity beginning on the same date. If the benefit were payable with a 10 year certain feature, but without the joint and 100% survivor aspect, its value would equal 110% of the value of the same amount payable as a straight life annuity beginning on the same date. Thus, the value of the postretirement death benefits which would be payable even if the annuity were not in the form of a joint and survivor annuity is 10%.

(ii) Under subparagraph (2)(i) of this paragraph, the values which may be excluded for purposes of the adjustment required by subparagraph (1) of this paragraph are as follows: The value of the joint and survivor annuity provided by the plan (126%) to the extent that such value exceeds the sum of, the value of the straight life annuity beginning on the same date (100%) and the value of the post-retirement death benefits (10%). Therefore, the value of the joint and survivor annuity provided by the plan exceeds the value of the straight life annuity with the 10 year certain feature by 16% (126%–110%).

(iii) Although 16% of the excess benefit attributable to the annity provided by this plan may, consequently, be ignored (because this represents the value added to the 10 year certain and life annuity benefit by the joint survivor feature), 10% of such excess benefit (the value added to the straight life annuity benefit by the 10 year certain feature) must be taken into account for purposes of adjusting the benefit under the plan to an actuarially equivalent straight life annuity. Thus, for example, if ABC Corporation were to provide a benefit equal to 95% of a participant's compensation for the high three years of service, the limitation of section 415(b)(1)(B) would be exceeded because the benefit under the plan would be the actuarial equivalent of a straight life annuity equal to 105% of a participant's compensation for the high three years.

*Example (2).* Corporation XYZ maintains a nondiscriminatory defined benefit plan that

provides a benefit which is equal to 100% of a participant's compensation for his high 3 years of service. For married participants, the benefit is payable in the form of a joint and 100% survivor annuity. While for participants who are not married, the benefit is payable in the form of a straight life annuity. The plan also provides that married participants can elect to receive their benefits in the form of a lump sum distribution which is the actuarial equivalent of a joint and 100% survivor annuity. The special rule set forth in subparagraph (2)(i) of this paragraph only applies, however, if the benefit is payable in the form of a qualified joint and survivor annuity. Any other forms of optional benefits must be adjusted to a straight life annuity in accordance with subparagraph (1) of this paragraph. Accordingly, because the benefit payable under the plan in the form of a lump sum distribution is the actuarial equivalent of a straight life annuity which is greater than 100% of a participant's compensation for his high 3 years, the limitation of section 415(b)(1)(B) has been exceeded.

(d) *Employee contributions*—(1) *Mandatory contributions.* Where a defined benefit plan provides for mandatory employee contributions (as defined in section 411(c)(2)(C)), the annual benefit attributable to such contributions is not taken into account for purposes of applying the limitations on benefits described in paragraph (a) of this section. The annual benefit attributable to mandatory contributions is determined by using the factors described in section 411(c)(2)(B) and the regulations thereunder, regardless of whether section 411 applies to that plan.

However, the mandatory employee contributions are considered a separate defined contribution plan maintained by the employer that is subject to the limitations on contributions and other additions described in § 1.415–6. (See § 1.415–7 for provisions relating to the limitations applicable where an employer maintains a defined benefit and defined contribution plan for the same employee.)

(2) *Voluntary contributions.* Where a defined benefit plan provides for voluntary employee contributions, these contributions are considered a separate defined contribution plan maintained by the employer which is subject to the limitations on contributions and other additions described in § 1.415–6. (See § 1.415–7 for provisions relating to the limitations applicable where an employer maintains a defined benefit and defined contribution plan for the same employee.)

(3) *Example:* The provisions of this paragraph may be illustrated by the following example:

*Example.* A is a participant in a defined benefit plan maintained by his employer. Under the terms of the plan A must make contributions to the plan in a stated amount to accrue benefits derived from employer contributions. These contributions are mandatory employee contributions within the meaning of section 411(c)(2)(C) and, thus, the annual benefit attributable to these contributions does not have to be taken into account for purposes of testing the annual benefit derived from employer contributions against the applicable limitation on benefits. However, these contributions are considered a separate defined contribution plan maintained by A's employer. Accordingly, with respect to the current limitation year: (1) the limitation on benefits (as described in paragraph (a)(1) of this section) is applicable to the annual benefit attributable to employer contributions to the defined benefit plan; (2) the limitation on contributions and other additions (as described in § 1.415–6) is applicable to the defined contribution plan consisting of A's mandatory contributions; and (3) the provisions of § 1.415–7 (relating to the limitations where the employer maintains a defined benefit and defined contribution plan for the same employee) are applicable to the defined benefit and defined contribution plan in which A participates. These same limitations would also apply. If, instead of providing for mandatory employee contributions the plan permitted voluntary employee contributions, since both voluntary and mandatory employee contributions are treated as separate defined contribution plans maintained by the employer.

(e) *Adjustment where benefit begins before age 55.* Where a defined benefit plan provides a retirement benefit beginning before age 55, the plan benefit is adjusted to the actuarial equivalent of a benefit beginning at age 55 in accordance with rules determined by the Commissioner. This adjustment is only for purposes of applying the dollar limitation described in section 415(b)(1)(A) to the annual benefit of the participant.

(f) *Total annual benefits not in excess of $10,000*—(1) *In general.* The annual benefit (without regard to the age at which benefits commence) payable with respect to a participant under any defined benefit plan is not considered to exceed the limitations on benefits described in section 415(b)(1) and in paragraph (a)(1) of this section if—

(i) The retirement benefits derived from employer contributions payable with respect to the participant under the plan and all other defined benefit plans of the employer do not in the aggregate exceed $10,000 for the limitation year, or for any prior limitation year, and

(ii) The employer has not at any time, either before or after the effective date of section 415, maintained a defined contribution plan in which the participant participated.

(2) *Special rule with respect to participants in multiemployer plans.* The special $10,000 exception set forth in subparagraph (1) of this paragraph is applicable to a participant in a multiemployer plan described in section 414(f) without regard to whether that participant ever participated in one or more other plans maintained by an employer who also maintains the multiemployer plan, provided that none of such other plans were maintained as a result of collective bargaining involving the same employee representative as the multiemployer plan.

(3) *Special rule with respect to employee contributions.* For purposes of subparagraph (1)(ii) of this paragraph, if a defined benefit plan provides for employee contributions, whether voluntary or mandatory, these contributions will not be considered a separate defined contribution plan maintained by the employer. Thus, a contributory defined benefit plan may utilize the special dollar limitation provided for in this paragraph.

(4) *Computation of $10,000 amount.* For purposes of subparagraph (1)(i) of this paragraph, the value of the retirement benefit payable under the plan is not adjusted upward for early retirement provisions and benefits which are not in the form of a straight life annuity (whether or not directly related to retirement benefits).

(5) *Examples.* The application of this paragraph may be illustrated by the following examples:

*Example (1).* B is a participant in a defined benefit plan maintained by this employer, X Corporation, which provides for a benefit payable in the form of a straight life annuity beginning at age 65. B's compensation for his high 3 years of service is $6,000. The plan does not provide for employee contributions and at no time has B been a participant in a defined contribution plan maintained by X. With respect to the current limitation year, B's retirement benefit under the plan is $9,500. Because B's retirement benefit does not exceed $10,000 and because B has at no time participated in a defined contribution plan maintained by X, the benefits payable under the plan are not considered to exceed the limitation on benefits otherwise applicable to B ($6,000). This result would remain the same, even if, under the terms of the plan, B's normal retirement age were age 50 or if the plan provided for employee contributions.

*Example (2).* Assume the same facts as in example (1), except that the plan provides for a benefit payable in the form of a life annuity with a 10 year certain feature. Assume that after the adjustment described in paragraph (c) of this section, B's annual benefit under the plan for the current limitation year is $10,500. However, for purposes of applying the special rule provided in this paragraph for total benefits not in excess of $10,000, there is no adjustment required if the retirement benefit payable under the plan is not in the form of a straight life annuity. Therefore, because B's retirement benefit does not exceed $10,000, B may receive the full $9,500

benefit without the otherwise applicable benefit limitations of this section being exceeded.

(g) *Special rule for service of less than 10 years*—(1) *In general.* Where a participant has less than 10 years of service with the employer at the time the participant begins to receive retirement benefits under the plan, the benefit limitations described in section 415(b) (1) and (4) and paragraphs (a)(1) and (f)(1) of this section are to be reduced by multiplying the otherwise applicable limitation by a fraction—

(i) The numerator of which is the number of years of service with the employer as of, and including, the current limitation year, and

(ii) The denominator of which is 10. For purposes of this subparagraph, the term "year of service" is to be determined on a reasonable and consistent basis.

(2) *Examples.* The provision of this paragraph may be illustrated by the following examples:

*Example (1).* C begins employment with Acme Corporation on January 1, 1977, at the age of 58. Acme maintains only a noncontributory defined benefit plan which provides for a straight life annuity beginning at age 65 and uses the calendar year for the limitation and plan year. Acme has never maintained a defined contribution plan. C becomes a participant in Acme's plan on January 1, 1978 and works through December 31, 1983, when he is age 65. C begins to receive benefits under the plan in 1984. C's average compensation for his high 3 years of service is $20,000. Furthermore, under the terms of Acme's plan, for purposes of computing C's nonforfeitable percentage in his accrued benefit derived from employer contributions, C has only 7 years of service with Acme (1977–1983). Therefore, because C has less than 10 years of service with Acme at the time he begins to receive benefits under the plan, the maximum permissible annual benefit payable with respect to C is only $14,000 ($20,000 × 7/10).

*Example (2).* Assume the same facts as in example (1), except that C's average compensation for his high 3 years is $8,000. Because C has less than 10 years of service with Acme at the time he begins to receive benefits, the maximum benefit payable with respect to C would be reduced to $5,600 ($8,000 x 7/10). However, the special rule for total benefits not in excess of $10,000, provided in paragraph (f) of this section, is applicable in this case. Accordingly, C may receive an annual benefit of $7,000 ($10,000 x 7/10) without the benefit limitations of this section being exceeded.

*Example (3).* ABC corporation maintains a defined benefit plan. Instead of adjusting the benefit limitations in accordance with the method described in subparagraph (1) of this paragraph, the plan provides that the plan administrator may make the necessary adjustment by multiplying the otherwise applicable limitation by a fraction—(1) the numerator of which is the number of completed months of service with the employer, and (2) the denominator of which is 120. The plan further provides that a completed month of service with the employer is any calendar month in which the employee is credited with at least 83 hours of service. Provided that an hour of service is determined in a manner that is reasonable and consistent, the plan may use this alternative rule for making the adjustment required when a participant has less than 10 years of service with the employer at the time he begins to receive benefits under the plan.

(h) *Benefits under certain collectively bargained plans.* For a special rule affecting the compensation limitation described in section 415(b)(1)(B) and paragraph (a)(1)(ii) of this section, see section 415(b)(7). For a special effective date with respect to this rule, see § 1.415–1(f)(5).

**§ 1.415–4 Transitional rule for defined benefit plans.**

(a) *In general.* If all of the conditions described in paragraph (b) of this section are satisfied, the annual benefit payable to an individual who was a participant in a defined benefit plan at any time before October 3, 1973, will not be considered to exceed the limitations of section 415(b) and § 1.415–3(a). In the case of an individual who was a participant in more than one defined benefit plan at any time before October 3, 1973, the annual benefit payable to that individual from each plan will be deemed not to exceed the limitations of section 415(b) and § 1.415–3(a) if the benefit from each plan satisfies all of the conditions described in paragraph (b) of this section.

(b) *Conditions for application of transitional rule.* The conditions are—

(1) The annual benefit payable to the participant does not exceed 100 percent of that participant's annual rate of compensation (as defined in paragraph (c) of this section) on October 2, 1973, or, if earlier, as of the date the participant separated from the service of the employer.

(2) The annual benefit payable to the participant does not exceed the annual benefit which would have been payable to the participant at any time if—

(i) All the terms and conditions of the plan which were actually in effect on October 2, 1973 (or if earlier, on the date the participant separated from the service of the employer) had remained in effect, and

(ii) The participant's compensation taken into account for determining benefits under the plan for any period after October 2, 1973, did not exceed his annual rate of compensation (as defined in paragraph (c) of this section) on that date.

(3) The annual benefit payable to a participant who separated from the service of the employer before October 2, 1973, does not exceed the participant's nonforfeitable accrued benefit under the plan as of the date he separated from service.

(c) *Special rules*—(1) *Annual rate of compensation.* For purposes of this section, a participant's annual rate of compensation for a particular calendar year shall be the greater of—

(i) The participant's compensation for that calendar year as determined in accordance with the rules provided in § 1.415–2(d), or

(ii) The compensation which would be used to determine benefits under the plan if the employee separated from the service of the employer on October 2, 1973, or, if earlier, the employee's actual date of separation from the service of the employer.

(2) *Cost-of-living adjustments.* (i) If the plan, as in existence on October 2, 1973, provided for a post-retirement cost of living adjustment to benefits, the adjustment may be taken into account in determining the participant's allowable benefit under paragraph (b) of this section. However, under paragraph (b)(2) of this section, if a plan is amended after October 2, 1973 to provide for cost-of-living benefit increases for retired participants, the transitional rule of this section will not apply to any increased benefit attributable to the amendment.

(ii) Any cost-of-living increase in the dollar limitation described in section 415(b)(1)(A) under section 415(d) and § 1.415–5(a) may be taken advantage of by an individual who is otherwise using the transitional rule set forth in this section. Thus, for example, if, due to cost-of-living increases under section 415(d) and § 1.415–5(a), the dollar limitation for 1981 is greater than $110,625, to the extent allowed under section 415(b), a plan may provide that an individual who is otherwise receiving a benefit of $110,625 per year under the transitional rule of this section, may receive the greater amount in 1981.

(3) *Retirement benefit beginning before age 55.* If a defined benefit plan provides a retirement benefit beginning before age 55, no actuarial adjustment of the benefit which can be provided under the transitional rule of this section is required to be made.

(4) *Retirement benefit payable in a form other than a straight life annuity.* If a defined benefit plan, as in existence on October 2, 1973, provided a retirement benefit in a form other than a straight life annuity, no actuarial adjustment (as otherwise required under § 1.415–3(c)) of the benefit which can be

provided under the transitional rule of this section is required to be made. However, if the plan is amended after October 2, 1973, to provide a benefit of greater value than the benefit provided under the plan as of October 2, 1973, the transitional rule of this section will not apply to the increase in the value of the benefit attributable to the amendment. (See paragraph (b)(2)(i) of this section.)

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

*Example (1).* N, a participant in a noncontributory defined benefit plan maintained by his employer, retired on February 17, 1969, and became eligible to receive benefits under the plan. At that time, N had attained age 65, the normal retirement age under the plan. N's annual rate of compensation on February 17, 1969, was $90,000. Under the terms of the plan, as in effect on February 17, 1969, N was entitled to an annual benefit of $86,000, which was N's accrued nonforfeitable benefit as of that date. Because the annual benefit payable with respect to N (i) does not exceed 100 percent of N's compensation on February 17, 1969, (ii) does not exceed the annual benefit to which N was entitled on retirement, and (iii) did not exceed N's nonforfeitable accrued benefit on retirement, the plan may provide an annual benefit of $86,000 with respect to N for limitation years to which section 415 applies without violating the limitations imposed by section 415(b) and § 1.415–3.

*Example (2).* Assume the same facts as in example (1) except that on February 17, 1969, when N retired and became eligible to receive benefits under the plan, N had not attained the age of 55. Because the adjustment required under section 415(b)(2)(C) for retirement benefits beginning before age 55 is only applicable to the dollar limitation described in section 415(b)(1)(A), under paragraph (c)(3) of this section, no actuarial adjustment of the annual benefit of $86,000 payable with respect to N is required to be made. Therefore, the plan may pay annual benefits of $86,000 to N, even though N retires and is eligible to receive benefits before age 55.

**§ 1.415–5 Cost of living adjustments for defined benefit plans.**

(a) *Dollar limitation*—(1) *In general.* Under section 415(d)(1)(A), the dollar limitation described in section 415(b)(1)(A) applicable to defined benefit plans for limitation years to which section 415 applies is adjusted annually to take into account increases in the cost of living. The adjustment of the dollar limitation is made by multiplying an annual adjustment factor by $75,000. For purposes of this paragraph, the annual adjustment factor is to be determined by the Commissioner.

(2) *Effective date of adjustment.* The adjusted dollar limitation applicable to defined benefit plans is effective as of January 1 of each calendar year and applies with respect to limitation years ending with or within that calendar year.

(3) *Application of adjusted figure.* The adjusted dollar limitation is applicable to employees who are participants in a defined benefit plan and to employees who have retired or otherwise terminated their service under the plan with a nonforfeitable right to accrued benefits, regardless of whether they have actually begun to receive such benefits. However, for purposes of this subparagraph, the annual benefit payable to a terminated participant, which is otherwise limited by the dollar limitation, may only be increased in accordance with cost-of-living adjustments of the dollar limitation if the plan specifically provides for such post-retirement adjustments.

(b) *Average compensation for high 3 years of service limitation*—(1) *In general.* Under section 415(d)(1)(C), with regard to participants who have separated from service with a nonforfeitable right to an accrued benefit, the compensation limitation described in section 415(b)(1)(B) applicable to limitation years to which section 415 applies may be adjusted annually to take into account increases in the cost of living. For any limitation year beginning after the separation occurs, the adjustment of the compensation limitation is made by multiplying the annual adjustment factor (as defined in paragraph (b)(2) of this section) by the compensation limitation applicable to the participant in the limitation year he separated from the service of the employer. In the case of a participant who has separated from service prior to the first limitation year to which section 415 applies, the cost-of-living adjustment of the compensation limitation under this paragraph for all limitation years prior to the effective date of section 415 is to be determined as provided by the Commissioner. For purposes of the adjustment described in this subparagraph, the annual benefit payable to a terminated participant, which is otherwise limited by the compensation limitation, may only be increased in accordance with cost-of-living adjustments of the compensation limitation if the plan specifically provides for such post-retirement adjustments.

(2) *Annual adjustment factor for compensation limitation.* For any limitation year beginning after the separation occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the limitation year in which the participant separated from service. In determining the adjusted dollar limitation for purposes of computing the annual adjustment factor under this subparagraph, the rule provided in paragraph (a)(2) of this section (relating to the effective date of the adjusted dollar limitation) shall be applicable.

(3) *Example.* The provisions of this paragraph may be illustrated by the following example:

*Example.* X is a participant in a qualified defined benefit plan maintained by his employer. The plan has a calendar year limitation year. Under the terms of the plan, X is entitled to a benefit consisting of a straight life annuity equal to 100 percent of X's compensation for his high 3 years of service. X's average compensation for his high 3 years is $20,000. X separates from the service of his employer on October 3, 1980, with a nonforfeitable right to his accrued benefit, and begins to receive benefit payments on November 1, 1980. Assume that the adjusted dollar limitation for 1980 is $100,000 and that the adjusted dollar limitation for 1981 is $110,000. For the limitation year beginning January 1, 1981 (the first limitation year beginning after X separates from service), the compensation limitation applicable to X may be adjusted for cost of living increases by multiplying the annual adjustment factor by $20,000. The annual adjustment factor for this limitation year is a fraction, the numerator of which is $110,000 (the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted) and the denominator of which is $100,000 (the adjusted dollar limitation for the limitation year in which X separates from service). Thus, for the limitation year beginning January 1, 1981, if the plan provides for post-retirement cost of living adjustments, X's maximum annual benefit could be increased to $22,000 ($110,000/$100,000 × $20,000).

(c) *Automatic cost of living adjustments of dollar limitation*—(1) *General rule.* A defined benefit plan may include a provision which provides for an annual automatic cost-of-living adjustment of the dollar limitation described in section 415(b)(1)(A) in accordance with paragraph (a) of this section. However, the provision may only provide for scheduled annual increases in the dollar limitation which become effective no sooner than the date determined in accordance with paragraph (a)(2) of this section.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

*Example.* Plan A is a defined benefit plan. Effective January 1, 1976, the plan was amended to limit all participants' annual plan benefits, determined on a straight life annuity

basis, to $75,000. The amendment also provides that, "as of January 1 of each calendar year, the dollar limitation as determined by the Commissioner of Internal Revenue for that calendar year will become effective as the Maximum Permissible Dollar Amount of the plan for that calendar year. The Maximum Permissible Dollar Amount for a calendar year applies to limitation years ending with or within that calendar year." The amendment providing for an automatic cost-of-living adjustment of the dollar limitation of Plan A is an example of a provision which satisfies the requirements of subparagraph (1) of this paragraph.

**§ 1.415-6 Limitation for defined contribution plans.**

(a) *General rules*—(1) *Maximum limitations.* Under section 415(c) and this section, to satisfy the provisions of section 415(a) for any limitation year, the annual additions (as defined in paragraph (b) of this section credited to the account of a participant in a defined contribution plan [as defined in section 414(i)]] for the limitation year may not exceed the lesser of—

(i) $25,000, or

(ii) 25 percent of the participant's compensation (as defined in subparagraph (3) of this paragraph) for the limitation year.

(2) *Adjustment to dollar limitation.* The dollar limitation described in section 415(c)(1)(A) and subparagraph (1)(i) of this paragraph is adjusted for cost of living increases under section 415(d) and paragraph (d) of this section. The adjusted figure is effective as of January 1 of each calendar year and applies to limitation years that end during that calendar year.

(3) *Participant's compensation.* For purposes of this section, the term "participant's compensation" for any limitation year has the same meaning as set forth in § 1.415-2(d). The term "participant's compensation" includes all compensation actually paid or made available to the individual for the entire limitation year even though the individual may not have been a participant for the entire limitation year.

(4) *Section 403(b) annuity contracts.* For special rules with respect to section 403(b) annuity contracts purchased by educational organizations, hospitals and home health service agencies, see paragrpah (e) of this section.

(b) *Annual additions*—(1) *In general.* For purposes of this section, the term "annual additions" means the sum, credited to a participant's account for any limitation year, of—

(i) Employer contributions,

(ii) The lesser of the amount of employee contributions in excess of 6% of his compensation (as defined in paragraph (a)(3) of this section) for the limitation year, or one half of the employee contributions for that year, and

(iii) Forfeitures.

(2) *Employer contributions.* (i) For purposes of paragraph (b)(1)(i) of this section, the term "annual additions" includes employer contributions which are made under the plan. Furthermore, the Commissioner may in an appropriate case, considering all of the facts and circumstances treat transactions between the plan and the employer or certain allocations to participants' accounts as giving rise to annual additions.

(ii) If, in a particular limitation year, an employer contributes an amount to a participant's account because of an erroneous forfeiture in a prior limitation year, or because of an erroneous failure to allocate amounts in a prior limitation year, the contribution will not be considered an annual addition with respect to the participant for that particular limitation year, but will be considered an annual addition for the limitation year to which it relates. An example of a situation in which an employer contribution might occur under the circumstances described in the preceding sentence is a retroactive crediting of service for an employee under 29 CFR 2530.200(b)-2(a)(3) (regulations promulgated by the Department of Labor) in accordance with an award of back pay. For purposes of this subdivision, if the amount so contributed in the particular limitation year takes into account actual investment gains attributable to the period subsequent to the year to which the contribution relates, the portion of the total contribution which consists of such gains is not considered as an annual addition for any limitation year. The rule described in this subdivision is only applicable for purposes of applying the limitations of section 415.

(iii) The restoration of an employee's accrued benefits by the employer in accordance with section 411(a)(3)(D) or section 411(a)(7)(C) will not be considered an annual addition for the limitation year in which the restoration occurs. (See § 1.411(a)-7(d)(6)(iii)(B).)

(iv) The transfer of funds from one qualified plan to another will not be considered an annual addition for the limitation year in which the transfer occurs.

(v) In the case of a defined contribution plan (such as a money purchase pension plan) to which an employer makes a contribution in order to reduce an accumulated funding deficiency (as defined in section 412(a)), the contribution will be considered an annual addition for the limitation year when the contribution was otherwise required to have been made. The special rule provided in the preceding sentence is available however, only if the contribution is allocated to those participants who would have received an addition if the contribution had been timely made. For purposes of determining the amount of the annual addition under this subdivision, any reasonable amount of interest paid by the employer is disregarded. However, any interest paid by the employer that is in excess of a reasonable amount, as determined by the Commissioner, is taken into account as an annual addition for the limitation year when the contribution was otherwise required to have been made.

(vi) In the case of a defined contribution plan (such as a money purchase pension plan) for which there has been a waiver of the minimum funding standard in a prior limitation year in accordance with section 412(d), that portion of an employer contribution in a subsequent limitation year which, if not for the waiver, would have otherwise been required in the prior limitation year under section 412(a) will be considered an annual addition for the prior limitation year. For purposes of determining the amount of such annual addition for the prior limitation year, any reasonable amount of interest paid by the employer in addition to the actual make-up contribution is disregarded. However, any interest paid by the employer that is in excess of a reasonable amount, as determined by the Commissioner, is taken into account as an annual addition for the prior limitation year.

(3) *Employee contributions.* For purposes of paragraph (b)(1)(ii) of this section, the term "annual additions" includes, to the extent employee contributions would otherwise be taken into account under this section as an annual addition, mandatory employee contributions (as defined in section 411(c)(2)(C) and the regulations thereunder) as well as voluntary employee contributions. The term "annual additions" does not include—

(i) Rollover contributions (as defined in section 402(a)(5), 403(a)(4), 408(d)(3) and 409(b)(3)(C)),

(ii) Repayments of loans made to a participant from the plan,

(iii) Repayments of amounts described in section 411(a)(7)(B) (in accordance with section 411(a)(7)(C)) and section 411(a)(3)(D) (see § 1.411(a)-7(d)(6)(iii)(B)),

The direct transfer of employee contributions from one qualified plan to another.

However, the Commissioner may in an appropriate case, considering all of the facts and circumstances, treat transactions between the plan and the employee or certain allocations to participants' accounts as giving rise to annual additions.

(4) *Contributions other than cash.* For purposes of this paragraph, a contribution by the employer or employee of property other than cash will be considered to be a contribution in an amount equal to the fair market value (as defined in § 20.2031–1 of the Estate Tax Regulations) of the property on the date the contribution is made. The contribution described in this subparagraph may, however, constitute a prohibited transaction within the meaning of section 4975(c)(1).

(5) *Forfeitures.* With respect to a particular limitation year, forfeitures (as well as any income attributable to the forfeiture) will be considered to be an annual addition to the plan if such forfeitures are allocated to the account of the participant as of any day within that limitation year.

(6) *Excess annual additions.* If as a result of the allocation of forfeitures, a reasonable error in estimating a participant's annual compensation, or under other limited facts and circumstances which the Commissioner finds justify the availability of rules set forth in this subparagraph, the annual additions under the terms of a plan for a particular participant would cause the limitations of section 415 applicable to that participant for the limitation year to be exceeded, the excess amounts shall not be deemed annual additions in that limitation year if they are treated in accordance with any one of the following subdivisions:

(i) The excess amounts in the participant's account must be allocated and reallocated to other participants in the plan. However, if the allocation or reallocation of the excess amounts pursuant to the provisions of the plan causes the limitations of section 415 to be exceeded with respect to each plan participant for the limitation year, then these amounts must be held unallocated in a suspense account. If a suspense account is in existence at any time during a particular limitation year, other than the limitation year described in the preceding sentence, all amounts in the suspense account must be allocated and reallocated to participants' accounts (subject to the limitations of section 415) before any employer contributions and employee contributions which would constitute annual additions may be made to the plan for that limitation year.

(ii) The excess amounts in the paticipant's account must be used to reduce employer contributions for the next limitation year (and succeeding limitation years, as necessary) for that participant if that participant is covered by the plan of the employer as of the end of the limitation year. However, if that participant is not covered by the plan of the employer as of the end of the limitation year, then the excess amounts must be held unallocated in a suspense account for the limitation year and allocated and reallocated in the next limitation year to all of the remaining participants in the plan in accordance with the rules set forth in paragraph (b)(6)(i) of this section. Furthermore, the excess amounts must be used to reduce employer contributions for the next limitation year (and succeeding limitation years, as necessary) for all of the remaining participants in the plan. For purposes of this subdivision, excess amounts may not be distributed to participants or former participants.

(iii) The excess amounts in the participant's account must be held unallocated in a suspense account for the limitation year and allocated and reallocated in the next limitation year to all of the participants in the plan in accordance with the rules provided in paragraph (b)(6)(i) of this section. The excess amounts must be used to reduce employer contributions for the next limitation year (and succeeding limitation years, as necessary) for all of the participants in the plan. For purposes of this subdivision, excess amounts may not be distributed to participants or former participants.

(iv) Notwithstanding subdivisions (i), (ii) or (iii) of this subparagraph, the plan may provide for the return of employee contributions (whether voluntary or mandatory), to the extent that the return would reduce the excess amounts in the participant's account. However, the return of mandatory employee contributions may result in discrimination in favor of employees who are officers, shareholders or highly compensated. If the plan does not provide for the return of gains attributable to the returned employee contributions, such earnings will be considered as an employee contribution for the limitation year in which the returned contribution was made. If a suspense account is in existence at any time during the limitation year in accordance with this subparagraph, investment gains and losses and other income may, but need not, be allocated to the suspense account. To the extent that investment gains or other income or investment losses are allocated to the suspense account, the entire amount allocated to participants from the suspense account, including any such gains or other income or less any losses, is considered as the annual addition. See § 1.401(a)–2(b) for provisions relating to the disposition of a suspense account in existence upon termination of a plan.

(7) *Time when annual additions credited.* (i) For purposes of this paragraph, an annual addition is credited to the account of a participant for a particular limitation year if it is allocated to the participant's account under the terms of the plan as of any date within that limitation year. However, an amount is not deemed allocated as of any date within a limitation year if such allocation is dependent upon participation in the plan as of any date subsequent to such date.

(ii) For purposes of this subparagraph, employer contributions shall not be deemed credited to a participant's account for a particular limitation year, unless the contributions are actually made to the plan no later than 30 days after the end of the period described in section 404(a)(6) applicable to the taxable year with or within which the particular limitation year ends. If, however, contributions are made by an employer exempt from Federal income tax under section 501(a), the contributions must be made to the plan no later than the 15th day of the sixth calendar month following the close of the taxable year (or fiscal year, if no taxable year) with or within which the particular limitation year ends.

(iii) For purposes of this subparagraph, employee contributions, whether voluntary or mandatory, shall not be deemed credited to a participant's account for a particular limitation year, unless the contributions are actually made to the plan no later than 30 days after the close of that limitation year. However, in the case of employee contributions to an employee stock ownership plan which meets the requirements of either section 301(d) of the Tax Reduction Act of 1975 (89 Stat. 38, § 1.46–7) and the regulations thereunder (§ 1.46–8) or section 409A and the regulations thereunder, such contributions shall be deemed credited to a participant's account in the limitation year for which the contribution is allocated to that account under the terms of the plan, provided that the contributions, or pledges to make the contributions, are actually made no later than the period described in section 404(a)(6) applicable to the taxable year with or within which the particular limitation year ends.

(iv) For purposes of this paragraph, amounts contributed to an individual retirement plan (as described in section

7701(a)(37)) are treated as allocated to the individual's account as of the last day of the limitation year ending with or within the taxable year for which the contribution is made.

(c) *Examples.* The provisions of paragraphs (a) and (b) of this section may be illustrated by the following examples:

*Example (1).* P is a participant in a qualified profit-sharing plan maintained by his employer, ABC Corporation. The limitation year for the plan is the calendar year. P's compensation (as defined in paragraph (a)(3) of this section) for the current limitation year is $20,000 consisting exclusively of salary. Because the compensation limitation described in section 415(c)(1)(B) applicable to P for the current limitation year is lower than the dollar limitation described in section 415(c)(1)(A) (as adjusted for cost of living increases), the maximum annual addition which can be allocated to P's account for the current limitation year is $5,000 (25 percent of $20,000).

*Example (2).* Assume the same facts as in Example (1), except that P's compensation for the current limitation year is $140,000. The maximum amount of annual additions that may be allocated to P's account in the current limitation year may not exceed the lesser of $35,000 (25 percent of $140,000) or the dollar limitation as in effect as of January 1 of the calendar year in which the current limitation year ends.

*Example (3).* Assume the same facts as in Example (1), except that P's compensation for the current limitation year consists of $20,000 salary and a bonus which is paid to P after the end of the current limitation year. Because the bonus was not actually paid or made available to P within the current limitation year, P's compensation for that year, for purposes of computing the compensation limitation described in section 415(c)(1)(B), may not include the bonus. However, if ABC Corporation had elected under § 1.415–2(d)(4) to use the compensation accrued for the current limitation year, then the amount of the bonus which accrued within the current limitation year could have been taken into account.

*Example (4).* Employer N maintains a qualified profit-sharing plan which uses the calendar year as its plan year and its limitation year. N's taxable year is a fiscal year beginning June 1 and ending May 31. Under the terms of the profit-sharing plan maintained by N, employer contributions are made to the plan two months after the close of N's taxable year and are allocated as of the last day of the plan year ending within the taxable year. Thus, employer contributions for the 1977 calendar year limitation year are made on July 31, 1978 (the date that is two months after the close of N's taxable year ending May 31, 1978) and are allocated as of December 31, 1977. Because the employer contributions are actually made to the plan no later than 30 days after the end of the period described in section 404(a)(6) with respect to N's taxable year ending May 31, 1978, the contributions will be considered annual additions for the 1977 calendar year limitation year.

*Example (5).* Assume the same facts as in example (4), except that the plan year for the profit-sharing plan maintained by N is the 12-month period beginning on March 1 and ending on February 28. Under the terms of the plan, an employer contribution which is made to the plan on July 31, 1978, is allocated to participants' accounts as of February 28, 1978. Because the last day of the plan year is in the 1978 calendar year limitation year, and because, under the terms of the plan, employer contributions are allocated to participants' accounts as of the last day of the plan year, the contributions are considered annual additions for the 1978 calendar year limitation year.

*Example (6).* XYZ Corporation maintains a profit-sharing plan to which a participant may make voluntary employee contributions for any year not to exceed 10 percent of the participant's compensation for the year. The plan permits a participant to make retroactive make-up contributions for any year for which he contributed less than 10 percent of compensation. XYZ uses the calendar year as the plan year and the limitation year. Under the terms of the plan, voluntary employee contributions are credited to a participant's account for a particular limitation year if such contributions are allocated to the participant's account as of any date within that limitation year. Participant A's compensation is as follows:

| *Limitation year and compensation* | |
|---|---|
| 1976 | $10,000 |
| 1977 | $12,000 |
| 1978 | $14,000 |
| 1979 | $16,000 |

Participant A makes no voluntary employee contributions during limitation years 1976, 1977 and 1978. On October 1, 1979, participant A makes a voluntary employee contribution of $5,200 (10 percent of A's aggregate compensation for limitation years 1976, 1977, 1978 and 1979 of $52,000). Under the terms of the plan, $1,000 of this 1979 contribution is allocated to A's account as of limitation year 1976; $1,200 is allocated to A's account of limitation year 1977; $1,400 is allocated to A's account as of limitation year 1978, and $1,600 is allocated to A's account as of limitation year 1979. However, under the rule set forth in paragraph (b)(7)(iii) of this section, employee contributions will not be considered credited to a participant's account for a particular limitation year for section 415 purposes unless the contributions are actually made to the plan no later than 30 days after the close of that limitation year. Thus, A's voluntary employee contribution of $5,200 made on October 1, 1979 would be considered as credited to A's account only for the 1979 calendar year limitation year, notwithstanding the plan provisions. (See section 415(c)(2)(B) and paragraph (b)(1)(ii) of this section for provisions relating to the amount of A's contribution that would be considered an annual addition to A's account for the 1979 calendar year limitation year.)

(d) *Cost-of-living adjustment for defined contribution plans*—(1) *In general.* Under section 415(d)(1)(B), the dollar limitation described in section 415(c)(1)(A) applicable to limitation years to which section 415 applies is adjusted annually to take into account increases in the cost of living. See § 1.415–5(a) for the procedure for making this adjustment and the effective date of the adjusted dollar limitation.

(2) *Automatic adjustments with respect to dollar limitation.* A defined contribution plan may include a provision which provides for an annual automatic cost of living adjustment of the dollar limitation described in section 415(c)(1)(A).

(e) *Special election for section 403(b) contracts purchased by educational organizations, hospitals and home health service agencies*—(1) *In general.* (i) An annuity contract described in section 403(b) is treated as a defined contribution plan for purposes of the limitations on contributions imposed by section 415. Thus, section 403(b) annuity contracts are subject to the rules regarding the amount of annual additions which may be made to a participant's account for any limitation year under section 415(C)(1) and paragraph (a)(1) of this section. Section 403(b) annuity contracts are also subject to the limitations imposed by section 403(b)(2)(A) with respect to the amount of employer contributions for the purchase of an annuity contract that may be excluded from the gross income of the employee on whose behalf the annuity contract is purchased. Therefore, unless a special election has been made as described in section 415(c)(4) and subparagraph (2) of this paragraph, the excludable amount of a contribution toward the purchase of a section 403(b) annuity contract for a particular taxable year is the lesser of the exclusion allowance computed under section 403(b)(2)(A) for that taxable year or the limitation imposed by section 415(c)(1) for the limitation year ending with or within that taxable year.

(ii) If the amount of contributions for an individual under a section 403(b) annuity contract for a taxable year exceeds the limitation of section 415(c)(1), then for purposes of computing the exclusion allowance under section 403(b)(2)(A) for future taxable years, the excess contribution is considered as an amount contributed by the employer for an annuity contract which was excludable from the employee's gross income for a prior taxable year under section 403(b)(2)(A)(ii). Thus, for future taxable years the exclusion allowance under section 403(b)(2)(A) is reduced by the amount of the excess contribution

even though that amount was not excludable from the employee's gross income in the taxable year when it was made. For a special effective date for the rule provided in this subdivision, see § 1.415–1(f)(6).

(iii) For purposes of the limitation imposed by section 415(c)(1), the amount contributed toward the purchase of a section 403(b) annuity contact is treated as allocated to the employee's account as of the last day of the limitation year ending with or within the taxable year during which the contribution is made.

(iv) For rules relating to the limitation year applicable to an individual on whose behalf a section 403(b) annuity contract has been purchased, see § 1.415–2(b)(7).

(2) *Alternative limitations.* (i) Under section 415(c)(4) and this paragraph, a special election is permitted with respect to section 403(b) annuity contracts (including custodial accounts treated as section 403(b) annuity contracts) purchased by educational organizations (as described in section 170(b)(1)(A)(ii)), home health service agencies (as described in paragraph (e)(2)(vi) of this section) and hospitals. Instead of the compensation limitation described in section 415(c)(1)(B) otherwise applicable to the amount of annual additions that may be made to the account of a participant in a defined contribution plan in any limitation year, an individual on whose behalf a section 403(b) annuity contract has been purchased may elect to have substituted for such limitation the amounts described in subparagraph (3) ("(A) election limitation") or (4) ("(B) election limitation") of this paragraph. Instead of the exclusion allowance determined under section 403(b)(2)(A) otherwise applicable for the taxable year with or within which the limitation year ends to an individual on whose behalf a section 403(b) annuity contract has been purchased, an individual may elect to have substituted for such exclusion allowance the amount described in paragraph (e)(5) ("(C) election limitation") of this section. The election shall be made at the time and in the manner prescribed in subparagraph (6) of this paragraph.

(ii) With respect to any limitation or taxable year, an election by an individual to have any one of the alternative limitations described in paragraph (e) (3), (4) or (5) of this section apply to contributions made on his behalf by the employer with respect to any section 403(b) annuity contract precludes an election to have any other of the alternative limitations apply for any future limitation or taxable year with respect to any section 403(b) annuity contract purchased by any employer of such individual.

(iii) With respect to any limitation year, an election by an individual to have paragraph (e)(3) of this section ("(A) election limitation") apply to contributions made on his behalf by the employer with respect to any section 403(b) annuity contract precludes an election to have any of the alternative limitations apply for any future limitation or taxable year with respect to any section 403(b) annuity contract purchased by any employer of such individual.

(iv) Any election made under this paragraph is irrevocable.

(v) The election made by the individual under this paragraph shall be controlling for all prior taxable years in which, in accordance with § 11.415(c)(4)–1(b), the individual had taken advantage of an alternative limitation, even if inconsistent with the alternative limitation used in determining income tax liability for those taxable years under that section. An individual, who took advantage of an alternative limitation under § 11.415(c)(4)–1(b) which is inconsistent with the one finally elected, may correct this inconsistency for each prior open taxable year in either of two ways. The individual may redetermine income tax liability as though none of the alternative limitations applied for that taxable year. Alternatively, the individual may recompute income tax liability for the particular taxable year in a manner consistent with the alternative limitation elected by the individual under this paragraph rather than the limitation originally used in accordance with § 11.415(c)(4)–1(b). Furthermore, if an individual, who had taken advantage of an alternative limitation in prior taxable years under § 11.415(c)(4)–1(b), elects under this paragraph not to have any of the alternative limitations apply, the individual, will, nevertheless, be considered to have elected the alternative limitation used under § 11.415(c)(4)–1(b). However, the rule described in the preceding sentence is not applicable if the individual recomputes income tax liability for all prior open taxable years in which an alternate limitation was taken advantage of under § 11.415(c)(4)–1(b) as though none of the alternative limitations applied for those taxable years. For purposes of section 6654 (relating to the failure of an individual to pay estimated tax), a difference in tax for such years resulting from a difference in these limitations is not treated as an underpayment. This rule only applies to the extent the difference in tax is due to the election of one of the alternative limitations or to a final election not to use one of the alternative limitations.

(vi) For purposes of this paragraph, a home health service agency is an organization described in section 501(c)(3) which is exempt from tax under section 501(a) and which has been determined by the Secretary of Health, Education and Welfare to be a home health service agency under section 1395x(o) of Title 42 of the United States Code.

(3) *"(A) election limitation."* For the limitation year that ends with or within the taxable year in which an individual eligible to make a special election separates from the service of his employer (and only for that limitation year), the "(A) election limitation" is the exclusion allowance computed under section 403(b)(2)(A) for the individual's taxable year in which the separation occurs (without regard to section 415). However, in determining this limitation, there may only be taken into account the individual's years of service for the employer (as defined in section 403(b)(4) and the regulations thereunder) and contributions made by the employer (as described in section 403(b)(2)(A)(ii) and regulations thereunder) during the period of years (not exceeding 10) ending on the date of separation. For purposes of this subparagraph, all service for the employer performed within the period beginning ten years before the date of separation and ending on the separation date must be taken into account. However, the "(A) election limitation" may not exceed the dollar limitation described in section 415(c)(1)(A) (as adjusted for cost-of-living increases under section 415(d)(1) and paragraph (d) of this section) applicable to the individual for the limitation year.

(4) *"(B) election limitation."* For any limitation year with respect to an individual eligible to make a special election, the "(B) election limitation" is equal to the least of the following amounts—

(i) $4,000, plus 25 percent of the participant's includible compensation (as defined in section 403(b)(3) and the regulations thereunder) for the taxable year with or within which the limitation year ends.

(ii) The amount of the exclusion allowance determined under section 403(b)(2)(A) and the regulations thereunder for the taxable year with or within which the limitation year ends.

(iii) $15,000.

(5) *"(C) election limitation."* For any taxable year with respect to an

individual eligible to make a special election, the "(C) election limitation" is the lesser of the dollar limitation described in section 415(c)(1)(A) (as adjusted for cost-of-living increases under section 415(d)(1) and paragraph (d) of this section) or the compensation limitation described in section 415(c)(1)(B) applicable to the individual for the limitation year ending with or within that taxable year. For purposes of determining the compensation limitation under this subparagraph for a particular limitation year, the term "compensation" has the same meaning as set forth in § 1.415–2(d).

(6) *Time and method of making election.* (i) With respect to any taxable year, an election by an individual to take advantage of any of the alternative limitations described in subparagraphs (3), (4) or (5) of this paragraph is made by determining income tax liability for that taxable year in a way which is consistent with one of the alternative limitations. However, an individual is only considered to have made an election for a taxable year when the use of one of the alternative limitations is necessary to support the exclusion from gross income reflected in the individual's income tax return for that taxable year.

(ii) In the case of an individual who, in accordance with § 11.415(c)(4)–1(b), took advantage of one of the alternative limitations for prior taxable years, the election described in this paragraph to take advantage of an alternative limitation will be effective only if the following two conditions are satisfied. The first condition is that the election must be made (in the manner described in subdivision (i) of this subparagraph) in the individual's income tax return for the taxable year immediately following the taxable year in which final regulations under section 415 are published in the **Federal Register.** The second condition is that if the individual's election is different from the limitation used under § 11.415(c)(4)–1(b) in determining income tax liability for prior taxable years, the individual must correct this inconsistency by recomputing income tax liability for all such prior open taxable years in accordance with paragraph (e)(2)(v) of this section. See paragraph (e)(2)(v) of this section for rules relating to an individual who had taken advantage of an alternative limitation in prior taxable years under § 11.415(c)(4)–1(b) but does not elect any of the alternative limitations for the taxable year immediately following the taxable yar in which final regulations under section 415 are published in the **Federal Register.**

(iii) This subdivision provides a special rule for those individuals who, in accordance with § 11.415(c)(4)–1(b), took advantage of one of the alternative limitations for prior taxable years, but who are not participating in a section 403(b) annuity program in the taxable year following the taxable year in which final regulations under section 415 are published in the **Federal Register.** In such a situation, the election described in this paragraph to take advantage of an alternative limitation (or, alternatively, not to elect any of the alternative limitations) is made by the individual by attaching a statement to the income tax return for the taxable year following the taxable year in which final section 415 regulations are published in the **Federal Register.** The statement must include the individual's name, address, Social Security number, the name of the section 403(b) annuity program in which the individual participated and a statement indicating the election being made. See paragraph (e)(2)(v) of this section for rules relating to the situation where the individual described in this subdivision chooses not to elect any of the alternative limitations.

(7) *Examples:* The provisions of this paragraph may be illustrated by the following examples:

*Example (1).* Doctor M is an employee of H Hospital (an organization described in section 501(c)(3) and exempt from taxation under section 501(a)) for the entire 1976 calendar year. M is not in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h). M uses the calendar year as the taxable year and limitation year. M has includable compensation (as defined in section 403(b)(3) and the regulations thereunder) and compensation (as defined in paragraph (a)(3) of this section) for taxable year 1976 of $30,000, and M has 4 years of service (as defined in § 1.403(b)–1(f)) with H as of December 31, 1976. During M's prior service with H, H had contributed a total of $12,000 on M's behalf for annuity contracts described in section 403(b), which amount was excludable from M's gross income for such prior years. Thus, for the limitation year ending with or within taxable year 1976, M's exclusion allowance determined under section 403(b)(2)(A) is $12,000 [(.20 × $30,000 4) — $12,000]. The limitation imposed by section 415(c)(1) that is applicable to M for limitation year 1976 is the lesser of $26,825 (the amount described in section 415(c)(1)(A) adjusted under section 415(d)(1)(b) for limitation year 1976) or $7,500 (the amount described in section 415(c)(1)(B)]. Absent the special elections provided in section 415(c)(4) and this paragraph, $7,500 would be the maximum contribution H could make for annuity contracts described in section 403(b) on M's behalf for limitation year 1976 without increasing M's gross income for taxable year 1976. However, because H is an organization described in section 415(c)(4), M may make a special election with respect to amounts contributed by H on M's behalf for section 403(b) annuity contracts for 1976. Assume that M does not separate from the service of H during 1976 and that, therefore, the "(A) election limitation" described in section 415(c)(4)(A) and subparagraph (3) of this paragraph is not available to M. If M elects the "(B) election limitation" for 1976, H could contribute $11,500 on M's behalf for annuity contracts described in section 403(b) for that year (the least of $11,500 (the amount described in section 415(c)(4)(B)(i))); $12,000 (the amount described in section 415(c)(4)(B)(ii)); and $15,000 (the amount described in section 415(c)(4)(B)(iii)). If M elects the "(C) election limitation" for 1976, H could only contribute up to $7,500 (the lower of the amounts described in section 415(c)(1)(A) or (B)) for section 403(b) annuity contracts on M's behalf for 1976 without increasing M's gross income for that year.

*Example (2).* Assume the same facts as in example (1) except that H had contributed a total of $18,000 on M's behalf for annuity contracts in prior years, which amount was excludable from M's gross income for such prior years. Accordingly, for 1976, M's exclusion allowance determined under section 403(b)(2)(A) is $6,000 [(.20 × $30,000 × 4)—$18,000]. The limitation imposed by section 415(c)(1) applicable to M for 1976 is $7,500 (the lesser of the amount described in section 415(c)(1)(A) or (B)). Absent the special elections provided in section 415(c)(4) and this paragraph, $6,000 would be the maximum amount H could contribute for annuity contracts described in section 403(b) on M's behalf for 1976 without increasing M's gross income for that year. However, if M elects the "(c) election limitations" for 1976, H may contribute up to $7,500 without increasing M's gross income for that year.

*Example (3).* G, a teacher, is an employee of E, an educational organization described in section 170(b)(1)(A)(ii). G uses the calendar year as the taxable year and G uses the 12-month consecutive period beginning July 1 as the limitation year. G has includible compensation (as defined in section 403(b)(3) and the regulations thereunder) for taxable year 1976 of $12,000 and G has compensation (as defined in paragraph (a)(3) of this section) for the limitation year ending with or within taxable year 1976 of $12,000. G has 20 years of service (as defined in § 1.403(b)–1(f)) as of May 30, 1976, the date G separates from the service of E. During G's service with E before taxable year 1976, E had contributed $34,000 toward the purchase of a section 403(b) annuity contract on G's behalf, which amount was excludable from G's gross income for such prior years. Of this amount, $19,000 was so contributed and excluded during the 10 year period ending on May 30, 1976. For the taxable year 1976, G's exclusion allowance determined under section 403(b)(2)(A) is $14,000 [(.20 × $12,000 × 20) — $34,000]. Absent the special elections described in section 415(c)(4) and this paragraph, $3,000 (the lesser of G's exclusion allowance for taxable year 1976 or the section 415(c)(1) limitation applicable to G for the limitation

year ending with or within such taxable year) would be the maximum excludable contribution E could make for section 403(b) annuity contracts on G's behalf for the limitation year ending with or within taxable year 1976. However, because E is an organization described in section 415(c)(4), G may make a special election with respect to amounts contributed on G's behalf by E for section 403(b) annuity contracts for the limitation year ending with or within taxable year 1976.

Because G has separated from the service of E during such taxable year, G may elect the "(A) election limitation" as well as the "(B) election limitation" or the "(C) election limitation." If G elects the "(A) election limitation" for the limitation year ending with or within taxable year 1976, E could contribute up to $5,000 ((.20 × $12,000 × 10) − $19,000) on G's behalf for section 403(b) annuity contracts for such limitation year without increasing G's gross income for the taxable year with or within which such limtation year ends. If G elects the "(B) election limitation" for such limitation year, E could contribute $7,000 (the least of $7,000 (the amount described in section 415(c)(4)(B)(i)); $14,000 (the amount described in section 415(c)(4)(B)(ii)); and $15,000 (the amount described in section 415(c)(4)(B)(iii)). If G elects the "(C) election limitation" for taxable year 1976, E could contribute $3,000 (the lesser of the amounts described in section 415(c)(1) (A) or (B)).

(f) *Special rules with respect to the application of section 415(c)(1)(B) with section 404(e)(4).* For special rules relating to the application of the compensation limitation described in section 415(c)(1)(B) with the minimum allowable deduction described in section 404(e)(4) in the case of a plan which provides contributions for employees, some or all of whom are employees within the meaning of section 401(c)(1), see the regulations under section 404(e).

(g) *Special rules for employee stock ownership plans*—(1) *General definitions.* For purposes of this paragraph—(i) An employee stock ownership plan is a plan which meets the requirements of either section 4975(e)(7) and the regulations thereunder, or whichever of the following is applicable: section 301(d) of the Tax Reduction Act of 1975 (89 Stat. 38, 26 CFR 1.46–7) and the regulations thereunder (26 CFR 1.46–8) or section 409A and the regulations thereunder.

(ii) The term "employer securities" means, in the case of an employee stock ownership plan within the meaning of section 4975(e)(7) and the regulations thereunder, qualifying employer securities within the meaning of section 4975(e)(8), that are also described in section 301(d)(9)(A) of the Tax Reduction Act of 1975 and the regulations thereunder or section 409A(l) and the regulations thereunder, whichever is applicable. In the case of an employee stock ownership plan described in section 301(d)(2) of the Tax Reductions Act of 1975 or section 409A, whichever is applicable, such term means employer securities within the meaning of section 301(d)(9)(A) of that Act and the regulations thereunder or section 409A(l) and the regulations thereunder, which ever is applicable.

(iii) An individual is considered to own more than 10 percent of the employer's stock if, without regard to stock held under the employee stock ownership plan, the individual owns (after application of section 1563(e), relating to constructive ownership of stock) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.

(2) *Special dollar limitation.* In the case of an employee stock ownership plan which meets the requirements of paragraph (g)(3) of this section, the applicable dollar limitation for a limitation year equals the sum of—

(i) The dollar amount described in section 415(c)(1)(A) (as so adjusted for that limitation year), and

(ii) The lesser of the amount determined under paragraph (g)(2)(i) of this section or the amount of employer securities within the meaning of paragraph (g)(1)(ii) of this section contributed to the employee stock ownership plan.

(3) *Employee stock ownership plans to which the special dollar limitation applies.* For purposes of this paragraph, the special dollar limitation is only applicable to an employee stock ownership plan for a particular limitation year for which no more than one-third of the employer contributions for the limitation year are allocated to employees who are officers, shareholders owning more than 10 percent of the employer's stock (as determined under subparagraph (1)(iii) of this paragraph), or whose compensation for the limitation year exceeds twice the dollar amount described in section 415(c)(1)(A) (as adjusted for cost-of-living increases under section 415(d)(1) and paragraph (d) of this section).

(4) *Cash contributions treated as contributions of employer securities.* For purposes of the special dollar limitation—

(i) In the case of an employee stock ownership plan in which the employer makes cash contributions which are used in a direct acquisition of employer securities, the cash contributions are treated as a contribution of employer securities for the limitation year, provided that the securities are employer securities within the meaning of paragraph (g)(1)(ii) of this section and are allocated to participants under the terms of the plan as of any date within that limitation year. However, this subdivision is not applicable unless the following two conditions are satisfied. The first condition is that the employer must contribute the cash to the plan no later than 30 days after the end of the period described in section 404(a)(6) applicable to the taxable year with or within which the particular limitation year ends. The second condition is that the employer securities must be purchased no later than 60 days after the end of the period described in the preceding sentence.

(ii) In the case of an employee stock ownership plan to which an exempt loan as described in § 54.4975–7(b) has been made, the employer's contribution of both principal and interest used to repay the exempt loan for the limitation year will be treated as a contribution of employer securities for that limitation year, provided that the securities allocated to participants are employer securities within the meaning of paragraph (g)(1)(ii) of this section.

(5) *Amounts considered as annual additions.* For purposes of applying the limitations of section 415(c)(1) and this section and for the special dollar limitation, in the case of an employee stock ownership plan to which an exempt loan as described in § 54.4975–7(b) has been made, the amount of employer contributions which is considered an annual addition for the limitation year is calculated with respect to employer contributions of both principal and interest used to repay the exempt loan for that limitation year.

(6) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

*Example (1).* Employee N is a participant in an employee stock ownership plan maintained by his employer, M Corporation, which meets the requirements of section 4975(e)(7) and the regulations thereunder. The plan also meets the requirements set forth in subparagraph (3) of this paragraph. M does not maintain any other qualified plan. The limitation year for the plan is the calendar year. For 1977, N has compensation (as defined in paragraph (a)(3) of this section) of $160,000. Without the special dollar limitation described in subparagraph (2) of this paragraph, under section 415(c)(1), N could only have annual additions of $28,175 (the lesser of the dollar limitation described in section 415(c)(1)(A) as adjusted for cost of living increases ($28,175) or the compensation limitation described in section 415(c)(1)(B) (25% of $160,000 = $40,000)) made to his account for the 1977 limitation year. Under the special dollar limitation, N would be able

to have annual additions of $56,350 ($28,175×2) made to his account for the 1977 limitation year, provided that amounts contributed in excess of $28,175 consist solely of employer securities. However, N is also subject to the compensation limitation described in section 415(c)(1)(B). Therefore, even under the special dollar limitation, N may only have annual additions of $40,000 made to his account for the 1977 limitation year: *Provided,* That amounts contributed in excess of $28,175 consist solely of employer securities within the meaning of paragraph (g)(1)(ii) of this section.

*Example (2).* Assume the same facts as in example (1), except that N's compensation for 1977 is $300,000. Because the compensation limitation (25% of $300,000=$75,000) is greater than the special dollar limitation of $56,350, N can have annual additions of $56,350 made to his account for the 1977 limitation year, provided that amounts contributed in excess of $28,175 consist solely of employer securities.

(h) *Special rules for level premium annuity contracts under plans benefiting owner-employees*—(1) *In general.* The compensation limitation described in section 415(c)(1)(B) will not be less than the contribution described in section 401(e) which is made for the benefit of an owner-employee (within the meaning of section 401(c)(3)) for a limitation year provided that—

(i) The annual additions with respect to such owner-employee for the limitation year consist solely of the contributions described in this paragraph, and

(ii) The owner-employee is not a participant at any time during the limitation year in a defined benefit plan maintained by the employer.

(2) *Application of the non-discrimination rules.* In the case of a plan which provides contributions for employees who are not owner-employees, that plan will not be treated as failing to satisfy the non-discrimination rules of section 401(a)(4) merely because contributions made on behalf of employees who are not owner-employees are not permitted to exceed the compensation limitation described in section 415(c)(1)(B).

(3) *Additional rules.* For additional rules concerning contributions described in section 401(e), see § 1.401(e)–4.

**§ 1.415–7 Limitation in case of defined benefit and defined contribution plan for same employee.**

(a) *Overall limitation*—(1) *In general.* Under section 415(e) and this section, in any case in which an individual has at any time participated in a defined benefit plan and also has at any time participated in a defined contribution plan maintained by the same employer, to satisfy the provisions of section 415(a), the sum of the defined benefit plan fraction (as defined in paragraph (b) of this section) and the defined contribution plan fraction (as defined in paragraph (c) of this section) with respect to that participant for any limitation year may not exceed 1.4.

(2) *Application of overall limitation to employee stock ownership plan.* An employee stock ownership plan which qualifies for, and takes advantage of, the special dollar limitation provided in section 415(c)(6) and § 1.415–6(g) is still subject to the 1.4 limitation of paragraph (a)(1) of this section.

(b) *Defined benefit plan fraction*—(1) *In general.* For purposes of paragraph (a) of this section, the defined benefit plan fraction applicable to a participant for any limitation year is a fraction—

(i) The numerator of which is the projected annual benefit (as defined in subparagraph (3) of this paragraph) of the participant under the plan (determined as of the close of the limitation year), and

(ii) The denominator of which is the projected annual benefit (as defined in subparagraph (3) of this paragraph) of the participant under the plan (determined as of the close of the limitation year) if the plan provided such participant the maximum benefit allowable under § 1.415–3.

In the event a participant has participated in more than one defined benefit plan maintained by the employer, the numerator of the defined benefit plan fraction is the sum of the projected annual benefits under all of the defined benefit plans.

(2) *Participants described in section 2004(d)(2) of the Employee Retirement Income Security Act of 1974.* For purposes of this paragraph, in the case of a participant described in section 2004(d)(2) of the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406, 88 Stat. 987), the defined benefit plan fraction applicable to such participant is deemed not to exceed 1.0 for any limitation year to which section 415 and this section apply.

(3) *Projected annual benefit.* For purposes of this section, a participant's "projected annual benefit" is equal to the annual benefit (as defined in § 1.415–3(b)(1)(i)) to which a participant in a defined benefit plan would be entitled under the terms of the plan based upon the following assumptions:

(i) The participant will continue employment until reaching normal retirement age as determined under the terms of the plan (or current age, if that is later).

(ii) The participant's compensation for the limitation year under consideration will remain the same until the date the participant attains the age described in subdivision (i) of this subparagraph.

(iii) All other relevant factors used to determine benefits under the plan for the limitation year under consideration will remain constant for all future limitation years.

(c) *Defined contribution plan fraction*—(1) *In general.* For purposes of paragraph (a) of this section, the defined contribution plan fraction applicable to a participant for any limitation year is a fraction—

(i) The numerator of which is the sum of the annual additions to the participant's account as of the close of the limitation year and for all prior limitation years, and

(ii) The denominator of which is the sum of the maximum amount of annual additions which could have been made under section 415(c) § 1.1415–6(a) (determined without regard to the special dollar limitation provided for employee stock ownership plans under section 415(c)(6) and § 1.415–6(g)) for the limitation year and for each prior limitation year of the participant's service with the employer (regardless of whether a plan was in existence during those years).

For purposes of this paragraph, the term "annual additions" has the same meaning as set forth in § 1.415–6(b).

(2) *Special rules for certain annuity contracts and individual retirement plans.* (i) Except as provided in subdivision (ii) of this subparagraph, in computing the defined contribution plan fraction applicable to an individual on whose behalf a section 403(b) annuity contract has been purchased, the amount which is included in the denominator of such fraction for a particular limitation year is the maximum amount which could have been contributed under the limitations of section 415(c) and § 1.415–6(a) applicable to the individual for the particular limitation year. However, if the individual elects an alternative limitation described in either section 415(c)(4)(A) or section 415(c)(4)(B) for a particular limitation year, the denominator of the fraction for such limitation year is the maximum amount which could have been contributed under the applicable limitations of section 415(c) and § 1.415–6(a), as modified by the alternative limitation elected.

(ii) This subdivision provides a rule for computing the defined contribution plan fraction with respect to an individual on whose behalf a section 403(b) annuity has been purchased prior to commencing employment with an employer which the individual controls (within the meaning of section 414 (b) or

(c), as modified by section 415(h)) and which maintains a defined benefit plan. In this situation, the controlled employer is considered to be maintaining the section 403(b) annuity contract as a defined contribution plan under the rules of paragraph(h)(2)(i) of this section. However, for all years prior to commencing employment with the controlled employer, the individual does not have any years of service (within the meaning of subparagraph (1)(ii) of this paragraph) with that employer. Thus, for each limitation year in which such individual did not have a year of service with the controlled employer, the denominator of the defined contribution plan fraction applicable to the individual is deemed to equal the numerator of that fraction.

(iii) The rules described in this paragraph also apply to an individual on whose behalf an individual retirement plan (as described in section 7701(a)(37)) has been maintained.

(iv) See paragraph (h)(4) of this section for special rules relating to the aggregation of a section 403(b) annuity contract and a qualified plan.

(d) *Special transitional rules for defined contribution plan fraction.* For purposes of determining the defined contribution plan fraction under paragraph (c) of this section for any limitation year beginning after December 31, 1975, the following rules shall apply with respect to limitation years before the first limitation year to which section 415 and this section apply.

(1) The aggregate amount taken into account under paragraph (c)(1)(i) of this section in determining the numerator of the defined contribution plan fraction is deemed not to exceed the aggregate amount taken into account under paragraph (c)(1)(ii) of this section in determining the denominator of the fraction. Thus, for example, if the aggregate amount of actual annual additions to the plan for all such limitation years is $500,000, while the aggregate amount in the denominator is $250,000, under the rule set forth in this subparagraph, the defined contribution plan fraction is $250,000 divided by $250,000, or 100 percent.

(2) The amount taken into account under section 415(c)(2)(B)(i) for each such limitation year is an amount equal to—

(i) The amount by which the aggregate amount of employee contributions (whether voluntary or mandatory) for all limitation years beginning before January 1, 1976, during which the employee was a participant in the plan exceeds 10 percent of the employee's aggregate compensation from the employer for all such limitation years, divided by

(ii) The number of full limitation years (counting any part of a limitation year as a full limitation year) beginning before January 1, 1976, during which the employee was a participant in the plan. Therefore, for purposes of computing the numerator of a participant's defined contribution plan fraction for limitation years beginning after December 31, 1975, no employee contributions made to the plan before the first limitation year to which section 415 and this section apply are taken into account as annual additions if the aggregate amount of the contributions does not exceed 10 percent of the employee's aggregate compensation from the employer for all limitation years prior to the first such limitation year.

(3) The special transitional rule concerning employee contributions provided for in paragraph (d)(2) of this section does not apply to any employee contributions (whether voluntary or mandatory) made on or after October 2, 1973, to the extent that these contributions exceed the maximum amount of employee contributions permitted under the plan as in effect on October 2, 1973. For purposes of the preceding sentence, plan amendments approved by the Internal Revenue Service before October 2, 1973, and actually put into effect before January 1, 1974, are considered in effect on October 2, 1973. Therefore, for purposes of computing the numerator of the defined contribution plan fraction for limitation years beginning after December 31, 1975, employee contributions made between October 2, 1973 and prior to the first limitation year to which section 415 and this section apply which exceed the maximum amount the employee was permitted to contribute under the provisions of the plan as in effect on October 2, 1973, are taken into account as annual additions (within the meaning of § 1.415–6(b)(1)(ii)).

(4) For purposes of this paragraph, the participant's aggregate compensation for all years (whichever are applicable under either paragraph (d)(1) or (2) of this section) with the employer before the first limitation year to which section 415 applies equals the product of the participant's compensation during the first limitation year to which section 415 applies times the number of such applicable years. However, this special rule is available only if records necessary for the determination of the participant's aggregate compensation for all such applicable years with the employer before the first limitation year to which section 415 applies are not available.

(e) *Examples.* The provisions of paragraphs (a) through (d) of this section may be illustrated by the following examples:

*Example (1).* (i) S is an employee of T Corporation and is a participant in both the noncontributory defined benefit plan and noncontributory defined contribution plan maintained by the corporation. S became an employee of T on July 1, 1966. S became a participant in the defined benefit plan maintained by T on January 1, 1968 and he became a participant in the defined contribution plan maintained by T on January 1, 1970. T uses the calendar year as the limitation year for both plans. The current limitation year is 1978. S's compensation (as defined in § 1.415–2(d)) from T is as follows:

| Limitation year | Compensation |
|---|---|
| 1966 | $3,000 |
| 1967 | 6,000 |
| 1968 | 6,000 |
| 1969 | 6,000 |
| 1970 | 8,000 |
| 1971 | 8,000 |
| 1972 | 9,000 |
| 1973 | 10,000 |
| 1974 | 10,000 |
| 1975 | 11,000 |
| 1976 | 11,000 |
| 1977 | 12,000 |
| 1978 | 12,000 |

(ii) S's projected annual benefit (as defined in paragraph (b)(3) of this section) as of the close of the current limitation year under the terms of the plan is $9,000. S's compensation for the current limitation year is $12,000. Therefore, the defined benefit plan fraction applicable to S for the current limitation year is .75 or 75 percent ($9,000 ÷ 12,000). S's defined contribution compensation limitation (as described in section 415(c)(1)(B)) for the current limitation year is $3,000 (25 percent of $12,000). For all limitation years beginning before January 1, 1978, the maximum aggregate amount of annual additions which could have been allocated to S's account under the defined contribution plan is $25,500 (aggregate compensation of $102,000 for all years of service with T Corporation × 25 percent). Assume that annual additions totaling $11,400 have been allocated to S's account as of the end of the current limitation year. Therefore, S's defined contribution plan fraction as of the end of the current limitation year equals

$$\frac{\$11,400}{\$25,500 - \$3,000} = \frac{\$11,400}{\$26,500} = .40 \text{ or } 40 \text{ percent}$$

Because the sum (115 percent) of the defined benefit plan fraction (75 percent) and the defined contribution plan fraction (40 percent) applicable to S for the current limitation year does not exceed 140 percent, the limitations of section 415(e) and this section are not exceeded.

*Example (2).* Assume the same facts as in example (1) except that the defined contribution plan maintained by T Corporation provides for mandatory employee contributions of 6% of compensation and voluntary employee contributions of 10% of compensation. Assume further that S made the maximum allowable employee contributions under the plan for each limitation year (including the current limitation year) during which he was a participant. For limitation years beginning before January 1, 1976, S made total employee contributions of $8,960. However, because of the special transitional rule applicable to the defined contribution plan fraction with respect to employee contributions for limitation years beginning before January 1, 1976 (as described in paragraph (d)(2) of this section), only $560 of the total employee contributions of $8,960 made by S will be considered an annual addition for each of those limitation years in which S was a participant in the plan total employee contributions for limitation years in which S participated in the plan beginning before January 1, 1976 of $8,960 minus $5,600 (10 percent of total compensation of $56,000 for such years) divided by 6 (the number of such years in which S was a participant in the plan). Thus, in determining the numerator of the defined contribution plan fraction applicable to S, because S was a participant in the plan for 6 limitation years beginning before January 1, 1976, the total amount of employee contributions that must be taken into account as annual additions for such limitation years is $3,360 ($560 × 6). For limitation years beginning after January 1, 1976, S made contributions of $1,760 (for limitation year 1976), $1,920 (for limitation year 1977) and $1,920 (for limitation year 1978, the current limitation year). The amount of annual additions attributable to such contributions under section 415(c)(2)(B) is $880 (for limitation year 1976), $960 (for limitation year 1977) and $960 (for the current limitation year), for a total of $2,800. Thus, the defined contribution plan fraction applicable to S for the current limitation year is

$$\frac{\$3,360 + \$2,800 + \$11,400}{\$28,500} = \frac{\$17,560}{\$28,500} = .62 \text{ or } 62 \text{ percent}$$

Because the sum (137 percent) of the defined benefit plan fraction (75 percent) and the defined contribution plan fraction (62 percent) applicable to S for the current limitation year does not exceed 140 percent, the limitations of section 415(e) and this section are not exceeded.

*Example (3).* (i) A is an employee of M Corporation and is a participant in both the noncontributory defined benefit plan and noncontributory defined contribution plan maintained by the corporation. A became an employee of M on January 1, 1969 and immediately became a participant in both plans. M uses the calendar year as the limitation year for both plans. The current limitation year is 1978. A's compensation (as defined in § 1.415–2(d)) from M is as follows:

| Limitation year | Compensation |
|---|---|
| 1969 | $100,000 |
| 1970 | 120,000 |
| 1971 | 130,000 |
| 1972 | 160,000 |
| 1973 | 200,000 |
| 1974 | 240,000 |
| 1975 | 280,000 |
| 1976 | 320,000 |
| 1977 | 400,000 |
| 1978 | 460,000 |

(ii) A is a participant described in section 2004(d)(2) of the Employee Retirement Income Security Act of 1974. A's projected annual benefit (as defined in paragraph (b)(3) of this section) as of the close of the current limitation year under the terms of the defined benefit plan is $100,000. The defined benefit dollar limitation (as described in section 415(b)(1)(A)) applicable to A for the current limitation year is $90,150. Absent the provisions of paragraph (b)(2) of this section, the defined benefit plan fraction applicable to A for the current limitation year would be 1.11 or 111 percent. However, under the provisions of paragraph (b)(2) of this section, for purposes of computing the overall 1.4 limitation imposed by section 415(e) and this section applicable to A for the current limitation year and all future limitation years, A's defined benefit plan fraction is considered to equal 1.0 or 100 percent.

(iii) A's defined contribution dollar limitation (as described in section 415(c)(1)(A)) for the current limitation year is $30,050. For the 9 limitation years ending before January 1, 1978, the maximum amount of annual additions which could have been allocated to A's account under the defined contribution plan is $230,000 ($25,000 × 7, plus $26,825 (adjusted figure for 1976) and $28,175 (adjusted figure for 1977)). Assume that annual additions totaling $60,000 ($10,000 of this amount being attributable to the current limitation year) have been allocated to A's account as of the close of the current limitation year. A's defined contribution plan fraction computed as of the end of the current limitation year is .23 or 23 percent

$$\frac{\$60,000}{\$230,000 + \$30,050} = .23 \text{ or } 23 \text{ percent}$$

Because the sum (123 percent) of the defined benefit plan fraction (1.0 or 100 percent) and the defined contribution plan fraction (.23 or 23 percent) for the current limitation year does not exceed 1.4 or 140 percent, the limitations of section 415(e) and this section are not violated.

*Example (4).* (i) J is an employee of M Corporation and is the only participant in the defined contribution plan maintained by the corporation. M uses the calendar year as the limitation year for the plan. The current limitation year is 1980. For all limitation years prior to 1980, the maximum allowable contribution was made to the plan. Thus, J's defined contribution plan fraction as of the end of 1979 is 1.0 or 100 percent. In 1980, before any contributions had been made to the defined contribution plan, the defined contribution plan is converted into a defined benefit plan. The defined benefit plan provides a benefit in the form of a straight life annuity equal to 50% of a participant's compensation for the high 3 years of service, but not less than the amount purchasable by J's account balance. J's average compensation for the high 3 years is $50,000.

(ii) As a result of the conversion of the defined contribution plan into the defined benefit plan, J becomes subject to the 1.4 limitation of section 415(e) and this section because he has at one time participated in a defined contribution plan and has at one time participated in a defined benefit plan maintained by M. Although the defined contribution plan is no longer in existence, J must still take the defined contribution plan fraction into account. A defined contribution plan fraction must continue to be taken into account regardless of whether the plan has been converted into another plan or whether the plan is terminated and distributions are made to participants.

(iii) Even though J is subject to the limitations of section 415(e) and this section, in computing the defined benefit plan fraction, the special rule set forth in § 1.415–3(b)(1)(iv) is applicable based on the facts of this example. That rule provides that when there is a transfer of assets or liabilities from one qualified plan to another, the annual benefit attributable to the assets transferred does not have to be taken into account by the transferee plan in applying the limitations of section 415. (For purposes of section 415, a conversion of a defined contribution plan into a defined benefit plan is considered such a transfer.) Assume that one-half of J's annual benefit under the defined benefit plan is attributable to the assets transferred from the defined contribution plan. This means that by applying the special rule set forth in § 1.415–3(b)(1)(iv), only one-half of J's projected annual benefit must be taken into account in computing J's defined benefit plan fraction.

Accordingly, because J's defined benefit plan fraction is only 25 percent (½ of 50% of high 3 years of compensation ($12,500) divided by 100% of high 3 years of compensation ($50,000)) and not 50 percent (which would have been the case absent the special rule of § 1.415–3(b)(1)(iv), the 140 percent limitation of section 415(e) and this section is not violated.

(f) *Special rules where records are not available for past periods*—(1) *In general.* The rules described in paragraph (f) (2) and (3) of this section apply only if the plan is unable to compute the defined contribution plan fraction because of the unavailability of records with respect to limitation years ending before the first limitation year to which section 415 applies to the plan.

(2) *Defined contribution plan fraction for first limitation year to which section 415 applies to a plan.* For purposes of paragraph (c) of this section, the defined contribution plan fraction for the first limitation year to which section 415 and this section apply to a plan equals the following fraction:

(i) The numerator of the fraction is the sum of the participant's account balance as of the valuation date under the plan immediately preceding November 2, 1975, plus any additions to the participant's account made subsequent to that valuation date and through the end of the first limitation year to which section 415 applies to the plan. In determining the participant's account balance as of the valuation date under the plan immediately preceding November 2, 1975, for purposes of this subdivision, one-half of all employee contributions (whether voluntary or mandatory) are not taken into account.

(ii) The denominator of the fraction is the sum of the maximum allowable annual additions under section 415(c) and § 1.415–6 for each limitation year, including the first limitation year to which section 415 applies to the plan, in which the participant had a year of service with the employer (see § 1.415–3(g)(1) for rules relating to the determination of a year of service). In determining the maximum allowable annual additions for purposes of this subdivision, the compensation limitation (as described in section 415(c)(1)(B)) taken into account for all of such limitation years is the applicable compensation limitation for the first limitation year to which section 415 applies to the plan and the dollar limitation taken into account for each such limitation year is the dollar limitation described in section 415(c)(1)(A), as adjusted for cost-of-living increases under section 415(d)(1)(B).

(3) *Defined contribution plan fraction for future limitation years.* For purposes of paragraph (c) of this section, with respect to all limitation years after the first limitation year to which section 415 applies to the plan, the defined contribution plan fraction for the current limitation year equals a fraction. The numerator of the fraction is the amount determined under paragraph (g)(2)(i) of this section, plus any subsequent annual additions made to the participant's account through the end of the current limitation year. The denominator of the fraction equals the sum of—

(i) The amount determined under subparagraph (2)(ii) of this paragraph, plus

(ii) The sum of the maximum allowable annual additions under section 415(c) and § 1.415–6 for the current limitation year and all prior limitation years beginning after the end of the first limitation year to which section 415 applies to the plan.

(g) *Special rule for certain plans in effect on date of enactment.* In the case of an individual who, on September 2, 1974, was a participant in a defined benefit and defined contribution plan maintained by the same employer and with respect to whom the sum of the defined benefit plan fraction and the defined contribution plan fraction for the limitation year during which such date falls (determined as of the close of that limitation year) exceeded 140 percent, the sum of such fractions may continue to exceed 140 percent for any particular future limitation year, but only if the conditions set forth in paragraph (g) (1) and (2) of this section are satisfied:

(1) The defined benefit plan fraction of the participant computed as of the close of the particular limitation year does not exceed such fraction computed as of the close of the limitation year during which September 2, 1974, falls.

(2) After September 2, 1974,

(i) No employer contributions are allocated to the participant's account under any defined contribution plan,

(ii) No forfeitures arising under any defined contribution plan are allocated to the participant's account,

(iii) No voluntary employee contributions are made by the participant under any defined contribution or defined benefit plan, and

(iv) No mandatory employee contributions are made by the participant under any defined contribution plan.

(h) *Special rules for section 403(b) annuity contracts*—(1) *In general.* For purposes of section 415, the following rules shall apply:

(i) In the case of an annuity contract described in section 403(b), the participant, on whose behalf the annuity contract is purchased, is considered to have exclusive control of the annuity contract. Accordingly, the participant, and not the participant's employer who purchased the section 403(b) annuity contract, is deemed to maintain the annuity contract.

(ii) Any contributions by the employer for an annuity contract described in this subparagraph are not taken into account in computing the defined contribution plan fraction applicable to the participant for the limitation year.

(2) *Special rules under which the employer is deemed to maintain the annuity contract.* (i) The provisions of this paragraph and not paragraph (h)(1) of this section apply for a particular limitation year with respect to a participant on whose behalf a section 403(b) annuity contract is purchased, if that participant is in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h). Under these circumstances, the section 403(b) annuity contract for the benefit of the participant is treated as a defined contribution plan maintained by both the controlled employer and the participant for that limitation year.

(ii) The provisions of this paragraph also apply for a particular limitation year if a participant on whose behalf a section 403(b) annuity contract is purchased has elected, under section 415(c)(4)(D) and § 1.415–6(e)(6), to have the provisions of section 415(c)(4)(C) and § 1.415–6(e)(5) apply for the taxable year with or within which such limitation year ends. In such a case, the exclusion allowance determined under section 403(b)(2)(A) is not applicable to the annuity contract for the particular limitation year, and the annuity contract is treated as a defined contribution plan maintained by both the employer and the participant for that limitation year.

(iii) For purposes of the limitations of section 415(e) and this section, where a section 403(b) annuity contract is treated as a defined contribution plan maintained by the employer under this subparagraph, any contributions made for the annuity contract for a participant are taken into account in computing the defined contribution plan fraction applicable to that participant for the limitation year. Thus, for example, if a doctor is employed by an educational organization which provides him with a section 403(b) annuity contract and also maintains a private practice as a shareholder owning more than 50 percent of a professional corporation, any qualified defined benefit plan of the professional corporation must be

aggregated with the section 403(b) annuity contract for purposes of applying the limitations of section 415(e) and this section.

(3) *Special rule with respect to salary reduction agreements.* The rules provided in this paragraph are applicable whether or not the section 403(b) annuity contract is purchased in connection with a salary reduction agreement between the employer and participant.

(4) *Special rules relating to the aggregation of the annuity contract with a qualified plan.* (i) Where a section 403(b) annuity contract is aggregated with a qualified defined benefit plan in a limitation year because of the application of the rules of paragraph (h)(2) of this section, all contributions made to the annuity contract for a participant in prior limitation years shall be taken into account in computing the participant's defined contribution plan fraction. However, the rule described in the preceding sentence is not applicable if the aggregation is solely attributable to the participant's election to have the provisions of section 415(c)(4)(C) apply. Accordingly, in any case in which aggregation is required as a result of the application of paragraph (h)(2)(ii) of this section, all contributions made to the annuity contract for a participant in prior limitation years in which paragraph (h)(1) of this section was applicable do not have to be taken into account in computing the defined contribution plan fraction applicable to the participant.

(ii) Any contributions made to a section 403(b) annuity contract for a participant in any limitation year in which the rules of paragraph (h)(2)(ii) of this section are applicable shall be taken into account in subsequent limitation years even though the rules of such paragraph are no longer applicable.

(iii) See paragraph (c)(2) of this section for special rules relating to the defined contribution plan fraction for a participant on whose behalf a section 403(b) annuity contract has been purchased.

(5) *Examples.* The application of this paragraph may be illustrated by the following examples:

*Example (1).* A is employed by a hospital which is described in section 501(c)(3) and exempt from tax under section 501(a). The hospital purchases an annuity contract described in section 403(b) on A's behalf for the current limitation year. The hospital also maintains a qualified defined benefit plan during the current limitation year in which A is a participant, but it does not maintain a qualified defined contribution plan during that limitation year. With respect to the annuity contract, A does not elect to have the provisions of section 415(c)(4)(C) apply for the current limitation year. Also, A is not in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h). For purposes of section 415, under subparagraph (1) of this paragraph, A is considered to have exclusive control of the annuity contract. Therefore, because A (and not the hospital) is treated as maintaining the annuity contract and because the hospital does not maintain any defined contribution plan, the limitations of section 415(e) and this section are not applicable to A for either the annuity contract or the hospital's defined benefit plan for the current limitation year.

*Example (2).* Assume the same facts as in example (1), except that the hospital also maintains a qualified defined contribution plan during the limitation year in which A is a participant. Because the hospital is not considered to be maintaining the section 403(b) annuity contract, contributions made to the annuity contract on behalf of A during the current limitation year by the hospital are not taken into account in computing the defined contribution plan fraction applicable to A for the plans maintained by the hospital for that limitation year.

*Example (3).* Assume the same facts as in example (1), except that A has elected to have the provisions of section 415(c)(4)(C) apply to the annuity contract for the current limitation year. Under the special rules contained in subparagraph (2) of this paragraph, the annuity contract is treated as a defined contribution plan maintained by the hospital as well as a defined contribution plan maintained by A. Accordingly, because the hospital is also maintaining a qualified defined benefit plan, the limitations of section 415(e) and this section are applicable to A for the annuity contract and the defined benefit plan maintained by the hospital in the current limitation year.

*Example (4).* J is employed by a hospital which is described in section 501(c)(3) and exempt from tax under section 501(a). The hospital purchases an annuity contract described in section 403(b) on J's behalf for the current limitation year. The hospital does not maintain any qualified plans during that limitation year. However, for the limitation year, J is in control (within the meaning of section 414 (b) or (c), as modified by section 415(h)) of employer M. M maintains a qualified defined benefit plan during that limitation year. Under the special rules contained in subparagraph (2) of this paragraph, the annuity contract is treated as a defined contribution plan maintained by M (the controlled employer) as well as a defined contribution plan maintained by J. Therefore, because M is also maintaining a qualified defined benefit plan, the limitations of section 415(e) and this section are applicable to J for the annuity contract and the defined benefit plan maintained by M in the current limitation year.

(i) *Special rules for individual retirement plans.* For purposes of section 415, an individual on whose behalf an individual retirement plan (as described in section 7701(a)(37)) is maintained is considered to have exclusive control of such plan. Therefore, the individual is treated as maintaining such plan. However, if that individual is in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h), the individual retirement plan for the benefit of such individual is treated as a defined contribution plan maintained by both the controlled employer and such individual.

**§ 1.415–8 Combining and aggregating plans.**

(a) *In general.* Under section 415(f) and this section, for purposes of applying the limitations of section 415 (b), (c), and (e) applicable to a participant for a particular limitation year—

(1) All qualified defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer will be treated as one defined benefit plan, and

(2) All qualified defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the employer will be treated as one defined contribution plan.

(b) *Annual compensation taken into account where employer maintains more than one defined benefit plan.* If more than one qualified defined benefit plan is being aggregated under paragraph (a) of this section for a particular limitation year, in applying the defined benefit compensation limitation (as described in section 415(b)(1)(B)) to the annual benefit of a participant under each plan, the participant's high 3 years of compensation is determined in accordance with § 1.415–3(a)(3).

(c) *Affiliated employers.* Any qualified defined benefit plan or qualified defined contribution plan maintained by any member of a controlled group of corporations (within the meaning of section 414(b) as modified by section 415(h)) or by any trade or business (whether or not incorporated) under common control (within the meaning of section 414(c) as modified by section 415(h)) is deemed maintained by all such members or such trades or businesses.

(d) *Section 403(b) annuity contracts*—(1) *In general.* In the case of an annuity contract described in section 403(b), except as provided in subparagraph (2) of this paragraph, the participant on whose behalf the annuity contract is purchased is considered to have exclusive control of the annuity contract. Accordingly, the participant, and not the participant's employer who purchased the section 403(b) annuity contract, is deemed to maintain the annuity contract.

(2) *Special rules under which the employer is deemed to maintain the annuity contract.* If a participant on whose behalf a section 403(b) annuity contract is purchased has elected to have the provisions of section 415(c)(4)(C) and § 1.415–6(e)(5) apply for a taxable year, the annuity contract is treated as a defined contribution plan maintained by both the employer that purchased the annuity contract and the participant on whose behalf it was purchased for the limitation year which ends during such taxable year. Even if the election under section 415(c)(4)(C) is not made, where a participant, on whose behalf a section 403(b) annuity contract is purchased, is in control of any employer within the meaning of section 414 (b) or (c) as modified by section 415(h) for a limitation year, the annuity contract for the benefit of the participant is treated as a defined contribution plan maintained by both the controlled employer and the participant for that limitation year. Thus, for example, if a doctor is employed by an educational organization which provides him with a section 403(b) annuity contract and also maintains a private practice as a shareholder owning more than 50 percent of a professional corporation, any qualified defined contribution plan of the professional corporation must be combined with the section 403(b) annuity contract for purposes of applying the limitations of section 415(c) and § 1.415–6. For purposes of this paragraph, it is immaterial whether the section 403(b) annuity contract is purchased as a result of a salary reduction agreement between the employer and the participant.

(e) *Multiemployer plans.* Multiemployer plans, as defined in section 414(f), shall not be aggregated with other multiemployer plans. However, where an employer maintains both a plan which is not a multiemployer plan and a multiemployer plan, the plan which is not a multiemployer plan shall be aggregated (based on its limitation year) with the multiemployer plan to the extent that benefits provided under the multiemployer plan are provided by such employer with respect to a common participant. See § 1.415–1(e)(2) for a rule relating to the computation of the benefits provided by an employer under a section 414(f) multiemployer plan.

(f) *Special rules for combining certain plans, etc.* If a plan, annuity contract or arrangement is subject to a special limitation in addition to, or instead of, the regular limitations described in section 415 (b) or (c), and is combined under this section with a plan which is subject only to the regular section 415 (b) or (c) limitations, the following rules shall apply:

(1) Each plan, annuity contract or arrangement which is subject to a special limitation must meet its own applicable limitation and each plan subject to the regular limitations of section 415 must meet its applicable limitation.

(2) The combined limitations shall be the larger of the applicable limitations.

(g) *Special priority rule for TRASOP's.* For a special rule concerning allocations to a participant's account under an Employee Stock Ownership Plan under section 301(d) of the Tax Reduction Act of 1975, see § 1.46–6(d)(6)(v).

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

*Example (1).* M is an employee of ABC Corporation and XYZ Corporation. ABC maintains a qualified noncontributory defined benefit plan in which M participates and XYZ maintains a qualified defined contribution plan in which M participates. ABC Corporation and XYZ Corporation are members of a controlled group of corporations within the meaning of section 414(b) as modified by section 415(h). Because ABC Corporation and XYZ Corporation are members of a controlled group of corporations within the meaning of section 414(b) as modified by section 415(h), M is treated as being employed by a single employer. Thus, M's annual benefit under the defined benefit plan maintained by ABC may not exceed the limitations of section 415(b) and § 1.415–3; the annual additions to M's account under the defined contribution plan maintained by XYZ may not exceed the limitations of section 415(c) and § 1.415–6; and, in addition, the two plans may not exceed the limitations of section 415(e) and § 1.415–7.

*Example (2).* Assume the same facts as in example (1), except that the qualified defined benefit plan maintained by ABC Corporation provides for employee contributions (whether mandatory or voluntary). Under § 1.415–3(d), ABC Corporation will be considered to be maintaining a defined contribution plan consisting of M's contributions to the defined benefit plan. For purposes of applying the limitations of section 415(e) and § 1.415–7, the qualified defined benefit plan maintained by ABC must be combined with the defined contribution plan which ABC is considered to maintain. In addition, because corporations ABC and XYZ are members of a controlled group of corporations (within the meaning of section 414(b), as modified by section 415(h)), for purposes of applying the limitations of section 415(c) and § 1.415–6, the qualified defined contribution plan maintained by XYZ must be combined with the define contribution plan which ABC is considered to be maintaining and the defined contribution plans (as combined) must be aggregated with the qualified defined benefit plan maintained by ABC for purposes of the limitations imposed by section 415(e) and § 1.415–7.

### § 1.415–9 Disqualification of plans and trusts.

(a) *In general.* Under section 415(g) and this section, with respect to a particular limitation year, a plan (and the trust forming part of the plan) is disqualified in accordance with the rules provided in paragraph (b) of this section, if any of the following conditions exist:

(1) Annual additions (as defined in § 1.415–6(b)) with respect to the account of any participant in a qualified defined contribution plan maintained by the employer exceed the limitations of section 415(c) and § 1.415–6.

(2) The annual benefit (as defined in § 1.415–3(b)(1)) of a participant in a qualifed defined benefit plan maintained by the employer exceeds the limitations of section 415(b) and § 1.415–3.

(3) The combination of annual additions with respect to the account of any participant in a qualified defined contribution plan and the projected annual benefit payable with respect to such participant in a qualified defined benefit plan maintained by the employer exceeds the limitations of section 415(e) and § 1.415–7.

For purposes of this paragraph, the determination of whether a plan or a combination of plans exceeds the limitations imposed by section 415 for a particular limitation year is, except as otherwise provided, made by taking into account the aggregation of plan rules provided in sections 415(f) and 414 (b) and (c) (as modified by section 415(h)).

(b) *Rules for disqualification of plans and trusts*—(1) *In general.* Any plan (including a trust which forms part of such plan) that is disqualified in a particular limitation year under the rules set forth in this paragraph, shall be disqualified as of the first day of the first plan year containing any portion of the particular limitation year.

(2) *Single plan.* In the case of a single qualified defined benefit plan maintained by the employer that provides an annual benefit (as defined in § 1.415–3(b)(1)) in excess of the limitations of section 415(b) and § 1.415–3 for any particular limitation year, such plan is disqualifed in that limitation year. Similarly, if the employer only maintains a single defined contribution plan under which annual additions (as defined in § 1.415–6(b)) allocated to the account of any participant exceed the limitations of section 415(c) and § 1.415–6 for any particular limitation year, such plan is also disqualifed in that limitation year.

(3) *More than one plan.* In the event that the limitations of section 415(b) and

§ 1.415–3, or section 415(c) and § 1.415–6 are exceeded for a particular limitation year with respect to any participant because of the application of the aggregation rules of section 415(f)(1) or section 414 (b) or (c), as modified by section 415(h), one or more of the plans shall be disqualifed in accordance with the rules set forth in this subparagraph. Similarly, if the limitations of section 415(e) and § 1.415–7 are exceeded for a particular limitation year with respect to any participant because of the application of such aggregation rules (although if an individual participates in a defined contribution and defined benefit plan maintained by the same employer, these limitations may be exceeded even without the application of such aggregation rules), one or more of the plans shall be disqualified in accordance with the following rules:

(i) If there are two plans and one of the plans has been terminated at any time including the last day of the particular limitation year, the plan which has not been so terminated (whether or not that plan is a multiemployer plan described in section 414(f)) is disqualified in that limitation year.

(ii) If there are two plans and neither plan has been terminated at any time including the last day of the particular limitation year, and if one of the plans is a multiemployer plan described in section 414(f), the plan which is not a multiemployer plan is disqualified in that limitation year. For purposes of the preceding sentence, the determination of whether a plan is a multiemployer plan described in section 414(f) is made as of the last day of the particular limitation year.

(iii) If there are two plans of an employer and neither plan has either been terminated at any time including the last day of the particular limitation year or determined to be a multiemployer plan described in section 414(f) as of such day, the employer may elect, in a manner determined by the Commissioner, the plan that is disqualified. If the two plans described in this subdivision are involved because of the application of section 414 (b) or (c), as modified by section 415(h), the employers of the controlled group may elect, in a manner determined by the Commissioner, the plan that is disqualified. However, the election described in the preceding sentence is not effective unless made by all of the employers within the controlled group. For purposes of this subdivision, the elected plan is disqualified in the particular limitation year.

(iv) If the election described in subdivision (b)(3)(iii) of this paragraph is not made with respect to the two plans described in such subdivision, the Commissioner, taking into account all of the facts and circumstances, shall have the discretion to determine the plan that is disqualified in the particular limitation year. In making this determination, some of the factors that will be taken into account include, but are not limited to, the number of participants in each plan and the amount of benefits provided on an overall basis by each plan.

(v) If more than two plans are involved, a plan or plans shall be disqualified in the particular limitation year in accordance with the principles contained in this subparagraph.

(4) *Special rules for simplified employee pension.* If there are two or more plans and if one of the plans is a simplified employee pension (as defined in section 408(k)), the simplified employee pension shall not be disqualified until all of the other plans have been disqualified. However, if one of the plans has been terminated, the simplified employee pension shall be disqualified before the terminated plan. For purposes of this subparagraph, the disqualification of a simplified employee pension means that the simplified employee pension is no longer described under section 408(k).

(c) *Special rules concerning section 403(b) annuity contracts*—(1) *In general.* If aggregating or combining a section 403(b) annuity contract and a qualified plan causes the applicable limitations of section 415 to be exceeded, the exclusion allowance under section 403(b)(2) shall be adjusted first to the extent necessary to satisfy such limitations.

(2) *Aggregating section 403(b) annuity contract and qualified defined benefit plan.* In the event that aggregating a section 403(b) annuity contract and a qualified defined benefit plan causes the limitations of section 415(e) and § 1.415–7 to be exceeded with respect to a participant for a particular limitation year, the amount of the contribution to the annuity contract in excess of such limitations is treated as a disqualified contribution and therefore includable in the gross income of the participant for the taxable year with or within which that limitation year ends. Furthermore, for purposes of computing the exclusion allowance under section 403(b)(2)(A) for future taxable years with respect to such participant, the disqualified contribution is treated as an amount contributed by the employer for an annuity contract which was excludable from the participant's gross income under section 403(b)(2)(A)(ii). Thus, for future taxable years, the exclusion allowance will be reduced by the amount of the disqualified contribution even though such amount was not excludable from the participant's gross income in the taxable year when it was made. See § 1.415–7(c)(2) for special rules relating to the defined contribution plan fraction applicable to an individual on whose behalf a section 403(b) annuity contract has been purchased.

(3) *Combining section 403(b) annuity contract and qualified defined contribution plan.* In the event that combining a section 403(b) annuity contract and a qualified defined contribution plan under the provisions of section 415(f)(1)(B) causes the limitations of section 415(c) and § 1.415–6 applicable to a participant under the defined contribution plan to be exceeded for a particular limitation year, the excess of the contributions to the annuity contract plus the annual additions to the plan over such limitations is treated as a disqualified contribution to the annuity contract and therefore includable in the gross income of the participant for the taxable year with or within which that limitation year ends. Furthermore, for purposes of computing the exclusion allowance under section 403(b)(2)(A) for future taxable years with respect to such participant, the disqualified contribution is treated as an amount contributed by the employer for an annuity contract which was excludable from the participant's gross income under section 403(b)(2)(A)(ii). Thus, for future taxable years, the exclusion allowance will be reduced by the amount of the disqualified contribution even though such amount was not excludable from the participant's gross income in the taxable year when it was made.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

*Example (1).* N is employed by a hospital which purchases an annuity contract described in section 403(b) on N's behalf for the current limitation year. The current limitation year is N's first year of service with the hospital. Solely for the purpose of illustrating the rules set forth in this paragraph, assume that N is in control of the hospital within the meaning of section 414 (b) or (c), as modified by section 415(h). Therefore, under section 415(e)(5), the section 403(b) annuity contract is treated as a defined contribution plan maintained by the hospital and N. The hospital also maintains a qualified defined contribution plan during the current limitation year in which N participates, but it does not maintain any other qualified plan. N's compensation (within the meaning of § 1.415–2(d)) from the hospital for the current limitation year is $20,000. N does not elect any of the alternative limitations provided in section

415(c)(4) for the section 403(b) annuity contract. For the current limitation year, the hospital contributes $3,000 for the section 403(b) annuity contract on N's behalf, which is within the limitations applicable to N under the annuity contract (i.e., the lesser of the exclusion allowance under section 403(b)(2)(A) ($4,000) or the limitations of section 415(c)(1) ($5,000)). The hospital also contributes $3,000 to the qualified plan on N's behalf for the current limitation year (which represents the only annual additions allocated to N's account under the plan for such year), which is within the $5,000 limitation of section 415(c)(1) applicable to N under the plan. However, under section 415(f)(1)(B), for purposes of applying the limitations of section 415(c) and § 1.415–6, the hospital is considered to maintain only one defined contribution plan and thus, all contributions to the annuity contract and to the regular plan must be combined. Because the total combined contributions ($6,000) exceed the section 415(c) limitation applicable to N under the plan ($5,000), under the special rules contained in this paragraph, $1,000 of the $3,000 contributed to the section 403(b) annuity contract is considered a disqualified contribution and therefore currently includable in N's gross income. Furthermore, in computing N's exclusion allowance for the section 403(b) annuity contract for future taxable years, besides the $3,000 contributed to the qualified plan, the $3,000 contributed for the section 403(b) annuity contract is also considered an amount contributed by the employer and excludable from N's gross income for purposes of section 403(b)(2)(A)(ii), even though only $2,000 of this amount was excludable from N's gross income.

*Example (2).* Assume the same facts as in example (1), except that instead of the defined contribution plan the hospital maintains a qualified defined benefit plan during the current limitation year in which N participates. Because the hospital is considered to be maintaining a defined contribution plan (in the form of a section 403(b) annuity contract) in addition to its defined benefit plan, the limitations of section 415(e) and § 1.415–7 are applicable to N for the current limitation year. If N's defined benefit plan fraction for the current limitation year is 1.0, then to satisfy the limitations of section 415(e) and § 1.415–7, N's defined contribution plan fraction may not exceed .4 for the current limitation year. This means that only $2,000 (i.e. 40% of $5,000—the applicable limitation to N for the annuity contract under the special rule set forth in § 1.415–7(c)(2)(i)) could have been contributed to the annuity contract on N's behalf for the current limitation year without violating the 1.4 limitation of section 415(e) and § 1.415–7. However, because the hospital contributed $3,000 to the section 403(b) annuity contract on N's behalf, under the special rules contained in this paragraph, $1,000 of this amount is considered a disqualified contribution and therefore currently includable in N's gross income. Furthermore, in computing N's exclusion allowance for the section 403(b) annuity contract for future taxable years, the $3,000 contributed to the annuity contract is considered the amount contributed by the employer and excludable from N's gross income for purposes of section 403(b)(2)(A)(ii), even through only $2,000 of this amount was excludable from N's gross income.

**§ 1.415–10 Special aggregation rules.**

(a) *General rules relating to aggregation of plans during limitation year*—(1) *Scope of aggregation rules.* This section provides rules for those situations in which two or more existing plans, which previously were unaggregated, are aggregated during a particular limitation year on or after the effective date of section 415 and these regulations, and as a result, the limitations of section 415 (b), (c) or (e) are exceeded for that limitation year. The rules described in this section are also applicable with respect to the aggregation of benefits under a multiemployer plan described in section 414(f) that previously were not required to be aggregated.

(2) *Controlling date of aggregation.* For purposes of this section, plans which are not aggregated as of the first day of a limitation year will not be considered aggregated for that limitation year. Notwithstanding the preceding sentence, if a section 403(b) annuity contract is aggregated with a qualified plan because of the election by the individual on whose behalf the annuity contract is purchased to have the provisions of section 415(c)(4)(C) apply for the taxable year, the annuity contract and the plan are deemed to be aggregated as of the first day of the limitation year ending with or within such taxable year.

(3) *Aggregation of additions and benefits.* If plans are aggregated under this section, the following rules shall apply:

(i) All annual additions credited to a participant's account under a defined contribution plan prior to the aggregation of such plan shall be taken into account in computing the participant's defined contribution plan fraction for purposes of applying the limitations of section 415(e) to the aggregated plans.

(ii) The annual benefit or projected annual benefit (whichever is applicable) of a participant under a defined benefit plan prior to the aggregation of such plan shall be taken into account for purposes of applying the limitations of section 415(b) or section 415(e) to the aggregated plans.

(iii) For a special rule relating to the aggregation of contributions to a section 403(b) annuity contract upon the aggregation of the annuity contract with a qualified plan, see § 1.415–7(h)(4)(i).

(b) *Aggregation of defined benefit plans.* In the case of an individual who is a participant in two or more defined benefit plans and with respect to whom the limitations of section 415(b) and § 1.415–3 are exceeded for a particular limitation year because of the aggregation of the plans for that limitation year, the limitations of section 415(b) and § 1.415–3 may be exceeded for that limitation year and for future limitation years provided that there is no increase in the participant's accrued benefit derived from employer contributions during the period within which these limitations are being exceeded.

(c) *Aggregation of defined benefit and defined contribution plan.* In the case of an individual who has at any time participated in a defined benefit plan and also has at any time participated in a defined contribution plan and with respect to whom the limitations of section 415(e) and § 1.415–7 are exceeded for a particular limitation year because of the aggregation of the plans for that limitation year, the limitations of section 415(e) and § 1.415–7 may be exceeded for that limitation year and for future limitation years provided that the following conditions are complied with during that period:

(1) The participant's accrued benefit derived from employer contributions in the defined benefit plan is not increased.

(2) No employer contributions are allocated to the participant's account under any defined contribution plan.

(3) No forfeitures arising under any defined contribution plan are allocated to the participant's account.

(4) No voluntary employee contributions are made by the participant under any defined benefit or defined contribution plan.

(5) No mandatory employee contributions are made by the participant under any defined contribution plan.

(d) *Limitation year for aggregated plans.* If the plans which are aggregated under this section have different limitation years, subparagraph (1) or (2) of this paragraph must be complied with.

(1) The relevant employer or employers must elect the limitation year that is to be controlling. This election shall be made by the adoption of a written resolution by the employer or employers. See § 1.415–2(b)(4) for rules relating to a change in the limitation year.

(2) The employer or employers may continue to use different limitation years for each plan in accordance with rules determined by the Commissioner.

If, in accordance with paragraph (d)(1) of this section, one limitation year is elected, and if the plans which are aggregated covered at least one common participant prior to being aggregated, that limitation year shall be applicable for past years for purposes of computing the defined contribution fraction for those years. For special rules relating to the computation of the defined contribution plan fraction where records are not available for past periods, see § 1.415–7(f).

(e) The provisions of this section may be illustrated by the following examples:

*Example (1).* J is an employee of two unrelated corporations, N and M. Each corporation has a qualified defined benefit plan in which J participates. Each plan provides a benefit which is equal to 75 percent of a participant's average compensation for his high 3 years of service and is payable in the form of a straight life annuity beginning at age 65. J's average compensation (within the meaning of § 1.415–2(d)) for his high three years of service from each corporation is $80,000. Each plan uses the calendar year for the limitation and plan year. In July, 1978, N Corporation becomes a wholly owned subsidiary of M Corporation, and as a result, J is treated as being employed by a single employer under section 414(b). Therefore, because section 415(f)(1)(A) requires that all defined benefit plans of an employer be treated as one defined benefit plan, the two plans must be aggregated for purposes of applying the limitations of section 415. (Although, under paragraph (a)(2) of this section, since the plans were not aggregated as of the first day of the 1978 limitation year (January 1, 1978), they will not be considered aggregated until the limitation year beginning January 1, 1979.) As a result of such aggregation, J becomes entitled to a combined benefit which is equal to $120,000, which is in excess of the section 415(b) dollar limitation for 1979 of $98,100. However, under paragraph (b) of this section, the limitations of section 415(b) and § 1.415–3 applicable to J may be exceeded in this situation without plan disqualification, so long as J's accrued benefit derived from employer contributions is not increased during the period within which the limitations are being exceeded.

*Example (2).* A, age 30, owns all of the stock of X Corporation and also owns 10 percent of the stock of Z Corporation. F, A's father, directly owns 75 percent of the stock of Z corporation. Both corporations have qualified defined contribution plans in which A participates and both plans use the calendar year for the limitation and plan year. A's compensation (within the meaning of § 1.415–6(a)(3)) for 1976 is $40,000 from Z Corporation and $150,000 from X Corporation. During 1976, annual additions of $10,000 are credited to A's account under the plan of Z Corporation, while annual additions of $26,825 are credited to A's account under the plan of X Corporation. In both instances, the amount of annual additions represent the maximum allowable under section 415(c) and § 1.415–6. On July 15, 1976, F dies, and A inherits all of F's stock in Z in 1976. Because under section 414(b), A is considered to be in control of X and Z Corporations, the two plans must be aggregated for purposes of applying the limitations of section 415. However, even though A's total annual additions for 1976 are $36,825, the limitations of section 415(c) and § 1.415–6 are not violated for 1976, because, under paragraph (a)(2) of this section, the two plans are considered separate plans for that year since they were not aggregated as of the first day of that year.

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## 26 CFR Part 1

[T.D. 7750]

## Income Tax; Taxable Years Beginning After December 31, 1954; Voluntary Employees' Beneficiary Associations

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to voluntary employees' beneficiary associations. The regulations provide guidance needed to determine whether an organization is a voluntary employees' beneficiary association under the Internal Revenue Code of 1954, as amended, and therefore exempt from federal income tax.

**DATE:** The regulations are, with certain exceptions effective for taxable years beginning after December 31, 1954.

**FOR FURTHER INFORMATION CONTACT:** Kimley R. Johnson of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–6212, not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

### Background

On July 17, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 501(c)(9) of the Internal Revenue Code of 1954 (45 FR 47871), as amended by section 121 of the Tax Reform Act of 1969 (83 Stat. 541), concerning voluntary employees' beneficiary associations. Approximately 240 comments were received; a public hearing was held on October 14, 1980. After consideration of all comments regarding the proposed regulations those regulations are adopted as revised by this Treasury decision.

### Control by Employees

Almost all comments requested deletion or modification of the provision of the proposed regulations which required that an association be controlled by its membership, or by independent trustee(s), or by trustees or other fiduciaries at least some of whom are designated by, or on behalf of, the membership. In response to these comments, many of which pointed out that section 501(c)(9) organizations are generally subject to the provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA), the proposed regulations have been amended to provide that employee welfare benefit plans within the scope of section 3(1) of ERISA and subject to Parts 1 and 4 of Title I of ERISA will be considered to be controlled by independent trustees. The reporting and disclosure requirements of Part 1 of Title I of ERISA are so designed as to ensure that employees are informed of the status of the association's benefit plan. The fiduciary standards set out in Part 4 of Title I of ERISA protect the interests of participants by establishing standards of conduct for plan fiduciaries.

The proposed regulations also are revised to indicate more clearly that where the designation of the trustee(s) of a collectively bargained plan is the result of the collective bargaining process, the plan is deemed to meet the control requirement of the regulations. Where a plan is negotiated through collective bargaining, but the employees' bargaining agent has not bargained for the right to participate in selection of the trustee and the trustee therefore is designated by the employer, the control requirement also will be considered satisfied. In addition, a financial intermediary such as a bank, acting in a fiduciary capacity, generally will be considered to be an independent trustee.

### Disproportionate Benefits

A number of comments suggested that the rule against discrimination in the provision of benefits has no basis in the statutory language of or legislative history to section 501(c)(9) and requested deletion or modification of that rule. However, substantially the same provision appeared in the 1969 version of the proposed regulations, published in the **Federal Register** on January 23, 1969. That provision, when proposed in 1969, attracted little adverse comment from the public. In addition, the Tax Reform Act of 1969, enacted nearly one year after the 1969 notice was published, amended section 501(c)(9) and related provisions in several respects. Despite these revisions to section 501(c)(9), Congress, in the Tax Reform Act of 1969, neither changed nor commented on this aspect of the proposed regulations.

The antidiscrimination provision is retained but clarified. First, the regulations recognize that, in determining whether a plan discriminates in eligibility for membership (or for a particular benefit), the failure to cover employees represented by a collective bargaining agent who in the collective bargaining process has eschewed membership (or a particular benefit) need not be taken into account. In addition, the regulations indicate that while an employer-funded organization may not restrict membership or eligibility for benefits to officers, shareholders, or highly compensated employees of the employer, section 501(c)(9) organizations need not comply with antidiscrimination rules as stringent as those that apply to qualified pension trusts described in section 401 of the Code. The final regulations provide, however, that section 501(c)(9) organizations that are employer-funded may not provide disproportionate benefits to officers, shareholders, or highly compensated employees of the funding employer. This rule is the same as that contained in the 1969 proposed regulations. On the other hand, these final regulations indicate a variety of circumstances under which benefits will not be considered disproportionate. In particular, they indicate that for certain kinds of benefits, such as life insurance or disability benefits, the provision of benefits in amounts that are a uniform percentage of compensation of covered employees will not be considered disproportionate.

In response to several comments, the final regulations have been revised to indicate that, where a plan does not discriminate in eligibility for benefits, the fortuitous payment during any year of disproportionate benefits to officers, shareholders, or highly compensated employees, because, for example, such individuals as a group suffered more adverse experience during the year, will not be considered disproportionate.

**Membership**

Several comments requested deletion of the provision that restricts membership in voluntary employees' beneficiary associations in the multiple employer context (so-called "multi-employer trusts") to those engaged in the same line of business in the same geographic locale. This provision is retained. First, section 501(c)(9) provides for the exemption of associations of employees who enjoy some employment related bond. Allowing section 501(c)(9) to be used as a tax-exempt vehicle for offering insurance products to unrelated individuals scattered throughout the country would undermine those provisions of the Internal Revenue Code that prescribe the income tax treatment of insurance companies. Second, it is the position of the Internal Revenue Service that where an organization such as a national trade association or business league exempt from taxation under section 501(c)(6) operates a group insurance program for its members, the organization is engaged in an unrelated trade or business. *See* Rev. Rul. 66–151, 1966–1 C.B. 152; Rev. Rul. 73–386, 1973–2 C.B. 191; Rev. Rul. 78–52, 1978–1 C.B. 166. To allow trade associations to provide insurance benefits through a trust exempt under section 501(c)(9) would simply facilitate circumvention of the unrelated trade or business income tax otherwise applicable to such organizations.

A number of comments suggested that the regulations as proposed would prohibit the qualification of plans that cover only retired employees. The regulations as adopted are clarified to indicate that retired members are considered to be employees if the retired member was at one time an active employee.

**Life, Sick, Accident, or Other Benefits**

The regulations are clarified to provide that the definition of a dependent for purposes of the provision of benefits under section 501(c)(9) is not necessarily identical to the definition of a dependent under section 152(a). Qualified benefits may be provided to a minor or student child of a member or member's spouse, or to any other minor child residing with the member, even if the support test of section 152(a) is not met.

Because of uncertainty on the point, it is specifically noted that the regulations as proposed and as adopted by this Treasury decision permit a section 501(c)(9) organization that receives employer funding to use insurance policies involving cash values only where the policies are part of a plan of so-called "group-permanent" life insurance subject to section 79 and the regulations thereunder. In addition, the revised regulations indicate that collectively bargained trusts may provide, by reason of section 302(c)(5) of the Labor Management Relations Act of 1947, legal service benefits and scholarships to dependents. Such trusts may not, although permitted to do so by section 302(c)(5), provide any benefit that is similar to a pension or other retirement income benefit except as specifically permitted by the final regulations.

Several comments requested that a provision be added to state that death benefits paid by a self-funded plan are eligible for exclusion from the gross income of the beneficiary under section 101(a) of the Code. This issue is not addressed in these regulations, which are intended to clarify the provisions of section 501(c)(9) and not to resolve income tax or other issues that may arise under other sections of the Code.

Finally, several comments suggested that the regulations should be revised to allow the proceeds of life insurance policies provided through a section 501(c)(9) organization to be settled in the form of an annuity to the beneficiary, even where the beneficiary does not have the option to take the policy proceeds in a lump sum. The regulations are revised to permit settlement of a life insurance policy in the form of an annuity where the treatment of the annuity is the same as if the annuity had been taken in lieu of a lump sum, that is, where the interest element in the periodic annuity payment is includable in the recipient's gross income.

**Effective Dates**

Several comments requested a delay in the effective date of final regulations, particularly because of difficulties in meeting the "employee control" and "discrimination" tests discussed above. The "employee control" test, however, has been modified in the fashion requested by most commenters. The discrimination rules have been revised to reflect the concept of "disproportionate benefits" contained in the 1969 proposed regulations and the concept of "disproportionate" itself has been clarified in a way requested by many commenters. Consequently, the effective date of the final regulations has not been changed.

**Drafting Information**

The principal author of this regulation is Kimley R. Johnson of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

*Adoption of Amendments to the Regulations*

Accordingly, 26 CFR Part 1 is amended by adding the following new sections immediately after § 1.501(c)(8)-1:

**§ 1.501(c)(9)–1 Voluntary employees' beneficiary associations, in general.**

To be described in section 501(c)(9) an organization must meet all of the following requirements:

(a) The organization is an employees' association,

(b) Membership in the association is voluntary,

(c) The organization provides for the payment of life, sick, accident, or other benefits to its members or their dependents or designated beneficiaries, and substantially all of its operations are in furtherance of providing such benefits, and

(d) No part of the net earnings of the organization inures, other than by payment of the benefits referred to in paragraph (c) of this section, to the benefit of any private shareholder or individual.

**§ 1.501(c)(9)–2 Membership in a voluntary employees' beneficiary association; employees; voluntary association of employees.**

(a) *Membership*—(1) *In general.* The membership of an organization described in section 501(c)(9) must consist of individuals who become entitled to participate by reason of their being employees and whose eligibility for membership is definnd by reference to objective standards that constitute an employment-related common bond among such individuals. Typically, those eligible for membership in an organization described in section 501(c)(9) are defined by reference to a common employer (or affiliated employers), to coverage under one or more collective bargaining agreements (with respect to benefits provided by reason of such agreement(s)), to membership in a labor union, or to membership in one or more locals of a national or international labor union. For example, membership in an association might be open to all employees of a particular employer, or to employees in specified job classifications working for certain employers at specified locations and who are entitled to benefits by reason of one or more collective bargaining agreements. In addition, employees of one or more employers engaged in the same line of business in the same geographic locale will be considered to share an employment-related bond for purposes of an organization through which their employers provide benefits. Employees of a labor union also will be considered to share an employment-related common bond with members of the union, and employees of an association will be considered to share an employment-related common bond with members of the association. Whether a group of individuals is defined by reference to a permissible standard or standards is a question to be determined with regard to all the facts and circumstances, taking into account the guidelines set forth in this paragraph. Exemption will not be denied merely because the membership of an association includes some individuals who are not employees (within the meaning of paragraph (b) of this section), provided that such individuals share an employment-related bond with the employee-members. Such individuals may include, for example, the proprietor of a business whose employees are members of the association. For purposes of the preceding two sentences, an association will be considered to be composed of employees if 90 percent of the total membership of the association on one day of each quarter of the association's taxable year consists of employees (within the meaning of paragraph (b) of this section).

(2) *Restrictions*—(i) *In general.* Eligibility for membership may be restricted by geographic proximity, or by objective conditions or limitations reasonably related to employment, such as a limitation to a reasonable classification of workers, a limitation based on a reasonable minimum period of service, a limitation based on maximum compensation, or a requirement that a member be employed on a full-time basis. Similarly, eligibility for benefits may be restricted by objective conditions relating to the type or amount of benefits offered. Any objective criteria used to restrict eligibility for membership or benefits may not, however, be selected or administered in a manner that limits membership or benefits to officers, shareholders, or highly compensated employees of an employer contributing to or otherwise funding the employees' association. Similarly, eligibility for benefits may not be subject to conditions or limitations that have the effect of entitling officers, shareholders, or highly compensated employees of an employer contributing to or otherwise funding the employees' association to benefits that are disproportionate in relation to benefits to which other members of the association are entitled. See § 1.501(c)(9)–4(b). Whether the selection or administration of objective conditions has the effect of providing disproportionate benefits to officers, shareholders, or highly compensated employees generally is to be determined on the basis of all the facts and circumstances.

(ii) *Generally permissible restrictions or conditions.* In general the following restrictions will not be considered to be inconsistent with § 1.501(c)(9)–2(a)(2)(i) or § 1.501(c)(9)–4(b):

(A) In the case of an employer-funded organization, a provision that excludes or has the effect of excluding from membership in the organization or participation in a particular benefit plan employees who are members of another organization or covered by a different plan, funded or contributed to by the employer, to the extent that such other organization or plan offers similar benefits on comparable terms to the excluded employees.

(B) In the case of an employer funded-organization, a provision that excludes from membership, or limits the type or amount of benefits provided to, individuals who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that the benefit or benefits provided by the organization were the subject of good faith bargaining between such employee representatives and such employer or employers.

(C) Restrictions or conditions on eligibility for membership or benefits that are determined through collective bargaining, by trustees designated pursuant to a collective bargaining agreement, or by the collective bargaining agents of the members of an association or trustees named by such agent or agents.

(D) The allowance of benefits only on condition that a member or recipient contribute to the cost of such benefits, or the allowance of different benefits based solely on differences in contributions, provided that those making equal contributions are entitled to comparable benefits.

(E) A requirement that a member (or a member's dependents) meet a reasonable health standard related to eligibility for a particular benefit.

(F) The provision of life benefits in amounts that are a uniform percentage of the compensation received by the individual whose life is covered.

(G) The provision of benefits in the nature of wage replacement in the event of disability in amounts that are a uniform percentage of the compensation of the covered individuals (either before or after taking into account any disability benefits provided through social security or any similar plan providing for wage replacement in the event of disability).

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

*Example (1).* Pursuant to a collective bargaining agreement entered into by X Corporation and W, a labor union which represents all of X Corporation's hourly-paid employees, the X Corporation Union Benefit Plan is established to provide life insurance benefits to employees of X represented by W. The Plan is funded by contributions from X, and is jointly administered by X and W. In order to provide its non-unionized employees with comparable life insurance benefits, X also establishes and funds the X Corporation Life Insurance Trust. The Trust will not be ineligible for exemption as an organization described in section 501(c)(9) solely because membership is restricted to those employees of X who are not members of W.

*Example (2).* The facts are the same as in Example (1) except that the life insurance benefit provided to the non-unionized employees of X differs from the life insurance benefit provided to the unionized employees of X pursuant to the collective bargaining agreement. The trust will not be ineligible for exemption as an organization described in section 501(c)(9) solely because the life insurance benefit provided to X's nonunionized employees is not same as the life insurance benefit provided to X's unionized employees.

*Example (3).* S corporation established a plan to provide health benefits to all its employees. In accordance with the provisions of the plan each employee may secure insurance coverage by making an election under which the employee agrees to contribute periodically to the plan an amount which is determined solely by whether the employee elects a high option coverage or a low option coverage and on whether the employee is unmarried or has a family. As an alternative, the employee may elect high or low options, self only or self and family, coverage through a local prepaid group medical plan. The contributions required of those electing the prepaid group medical plan also vary with the type of coverage selected, and differ from those required of employees electing insurance. The difference between the amount contributed by employees electing the various coverages and the actual cost of purchasing the coverage is made up through contributions by S to the plan, and under the plan, S provides approximately the same proportion of the cost for each coverage. To fund the plan, S established an arrangement in the nature of a trust under applicable local law and contributes all employee contributions, and all amounts which by the terms of the plan it is required to contribute, to the trust. The terms of the plan do not provide for disproportionate benefits to the employees of S and will not be considered inconsistent with § 1.501(c)(9)–2(a)(2)(i).

*Example (4).* The facts are the same as in Example (3) except that, for those employees or former employees covered by Medicare, the plan provides a distinct coverage which supplements Medicare benefits. Eligibility for Medicare is an objective condition relating to a type of benefit offered, and the provision of separate coverage for those eligible for Medicare will not be considered inconsistent with § 1.501(c)(9)–2(a)(2)(i).

(b) *Meaning of "employee".* Whether an individual is an "employee" is determined by reference to the legal and bona fide relationship of employer and employee. The term "employee" includes the following:

(1) An individual who is considered an employee:

(i) For employment tax purposes under Subtitle C of the Internal Revenue Code and the regulations thereunder, or

(ii) For purposes of a collective bargaining agreement,

whether or not the individual could qualify as an employee under applicable common law rules. This would include any person who is considered an employee for purposes of the Labor Management Relations Act of 1947, 61 Stat. 136, *as amended,* 29 U.S.C. 141 (1979).

(2) An individual who became entitled to membership in the association by reason of being or having been an employee. Thus, an individual who would otherwise qualify under this paragraph will continue to qualify as an employee even though such individual is on leave of absence, works temporarily for another employer or as an independent contractor, or has been terminated by reason of retirement, disability or layoff. For example, an individual who in the normal course of employment is employed intermittently by more than one employer in an industry characterized by short-term employment by several different employers will not, by reason of temporary unemployment, cease to be an employee within the meaning of this paragraph.

(3) The surviving spouse and dependents of an employee (if, for purposes of the 90-percent test of § 1.501(c)(9)–2(a)(1) they are considered to be members of the association).

(c) *Description of voluntary association of employees*—(1) *Association.* To be described in section 501(c)(9) and this section there must be an entity, such as a corporation or trust established under applicable local law, having an existence independent of the member-employees or their employer.

(2) *Voluntary.* Generally, membership in an association is voluntary if an affirmative act is required on the part of an employee to become a member rather than the designation as a member due to employee status. However, an association shall be considered voluntary although membership is required of all employees, provided that the employees do not incur a detriment (for example, in the form of deductions from pay) as the result of membership in the association. An employer is not deemed to have imposed involuntary membership on the employee if membership is required as the result of a collective bargaining agreement or as an incident of membership in a labor organization.

(3) *Of employees.* To be described in this section, an organization must be controlled—

(i) By its membership,

(ii) By independent trustee(s) (such as a bank), or

(iii) By trustees or other fiduciaries at least some of whom are designated by, or on behalf of, the membership.

Whether control by or on behalf of the membership exists is a question to be determined with regard to all of the facts and circumstances, but generally such control will be deemed to be present when the membership (either directly or through its representative) elects, appoints or otherwise designates a person or persons to serve as chief operating officer(s), administrator(s), or trustee(s) of the organization. For purposes of this paragraph an organization will be considered to be controlled by independent trustees if it is an "employee welfare benefit plan", as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (ERISA), and, as such, is subject to the requirements of Parts 1 and 4 of Subtitle B, Title I of ERISA. Similarly, a plan will be considered to be controlled by its membership if it is controlled by one or more trustees designated pursuant to a collective bargaining agreement (whether or not the bargaining agent of the represented employees bargained for and obtained the right to participate in selecting the trustees).

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

*Example (1).* X, a labor union, represents all the hourly-paid employees of Y Corporation. A health insurance benefit plan was established by X and Y as the result of a collective bargaining agreement entered into by them. The plan established the terms and conditions of membership in, and the benefits to be provided by, the plan. In accordance with the terms of the agreement, Y Corporation is obligated to establish a trust fund and make contributions thereto at specified rates. The trustees, some of whom are designated by X and some by Y, are authorized to hold and invest the assets of the trust and to make payments on instructions issued by Y Corporation in accordance with the conditions contained in the plan. The interdependent benefit plan agreement and trust indenture together create a voluntary employees' beneficiary

association over which the employees posses the requisite control through the trustees designated by their representative, X.

*Example (2).* Z Corporation unilaterally established an educational benefit plan for its employees. The purpose of the plan is to provide payments for job-related educational or training courses, such as apprenticeship training programs, for Z Corporation employees, according to objective criteria set forth in the plan. Z establishes a separate bank account which it uses to fund payments to the plan. Contributions to the account are to be made at the discretion of and solely by Z Corporation, which also administers the plan and retains control over the assets in the fund. Z Corporation's educational benefit plan and the related account do not constitute an association having an existence independent of Z Corporation and therefore do not constitute a voluntary employees' beneficiary association.

*Example (3).* A, an individual, is the incorporator and chief operating officer of Lawyers' Beneficiary Association (LBA). LBA is engaged in the business of providing medical benefits to members of the Association and their families. Membership is open only to practicing lawyers located in a particular metropolitan area who are neither self-employed nor partners in a law firm. Membership in LBA is solicited by insurance agents under the control of X Corporation (owned by A) which, by contract with LBA, is the exclusive sales agent. Medical benefits are paid from a trust account containing periodic "contributions" paid by the members, together with proceeds from the investment of those contributions. Contribution and benefit levels are set by LBA. The "members" of LBA do not hold meetings, have no right to elect officers or directors of the Association, and no right to replace trustees. Collectively, the subscribers for medical benefits from LBA cannot be said to control the association and membership is neither more than nor different from the purchase of an insurance policy from a stock insurance company. LBA is not a voluntary employees' beneficiary association.

*Example (4).* U corporation unilaterally established a plan to provide benefits to its employees. In accordance with the provisions of the plan, each employee may secure insurance or benefit coverage by making an election under which the employee agrees to contribute to the plan an amount which is determined solely by whether the employee elects a high option coverage or a low option coverage and on whether the employee elects self only or self and family coverage. The difference between the amount contributed by employees electing the various coverages and the actual cost of the coverage is made up through contributions by U to the plan. To fund the plan, U established an arrangement in the nature of a trust under applicable local law and contributed all employee contributions, and all amounts which by the term of the plan it was required to provide to the plan, to the trust. The trust constitutes an "employee welfare benefit plan" within the meaning of, and subject to relevant requirements of, ERISA. It will be considered to meet the requirements of § 1.501(c)(9)-2(c)(3).

**§ 1.501(c)(9)-3 Voluntary employees' beneficiary associations; life, sick, accident, or other benefits.**

(a) *In general.* The life, sick, accident, or other benefits provided by a voluntary employees' beneficiary association must be payable to its members, their dependents, or their designated beneficiaries. For purposes of section 501(c)(9), "dependent" means the member's spouse; any child of the member or the member's spouse who is a minor or a student (within the meaning of section 151(e)(4)); any other minor child residing with the member; and any other individual who an association, relying on information furnished to it by a member, in good faith believes is a person described in section 152(a). Life, sick, accident, or other benefits may take the form of cash or noncash benefits. A voluntary employees' beneficiary association is not operated for the purpose of providing life, sick, accident, or other benefits unless substantially all of its operations are in furtherance of the provision of such benefits. Further, an organization is not described in this section if it systematically and knowingly provides benefits (of more than a *de minimis* amount) that are not permitted by paragraphs (b), (c), (d), or (e) of this section.

(b) *Life benefits.* The term "life benefits" means a benefit (including a burial benefit or a wreath) payable by reason of the death of a member or dependent. A "life benefit" may be provided directly or through insurance. It generally must consist of current protection, but also may include a right to convert to individual coverage on termination of eligibility for coverage through the association, or a permanent benefit as defined in, and subject to the conditions in, the regulations under section 79. A "life benefit" also includes the benefit provided under any life insurance contract purchased directly from an employee-funded association by a member or provided by such an association to a member. The term "life benefit" does not include a pension, annuity or similar benefit, except that a benefit payable by reason of the death of an insured may be settled in the form of an annuity to the beneficiary in lieu of a lump-sum death benefit (whether or not the contract provides for settlement in a lump sum).

(c) *Sick and accident benefits.* The term "sick and accident benefits" means amounts furnished to or on behalf of a member or a member's dependents in the event of illness or personal injury to a member or dependent. Such benefits may be provided through reimbursement to a member or a member's dependents for amounts expended because of illness or personal injury, or through the payment of premiums to a medical benefit or health insurance program. Similarly, a sick and accident benefit includes an amount paid to a member in lieu of income during a period in which the member is unable to work due to sickness or injury. Sick benefits also include benefits designed to safeguard or improve the health of members and their dependents. Sick and accident benefits may be provided directly by an association to or on behalf of members and their dependents, or may be provided indirectly by an association through the payment of premiums or fees to an insurance company, medical clinic, or other program under which members and their dependents are entitled to medical services or to other sick and accident benefits. Sick and accident benefits may also be furnished in noncash form, such as, for example, benefits in the nature of clinical care services by visiting nurses, and transportation furnished for medical care.

(d) *Other benefits.* The term "other benefits" includes only benefits that are similar to life, sick, or accident benefits. A benefit is similar to a life, sick, or accident benefit if—

(1) It is intended to safeguard or improve the health of a member or a member's dependents, or

(2) It protects against a contingency that interrupts or impairs a member's earning power.

(e) *Examples of "other benefits".* Paying vacation benefits, providing vacation facilities, reimbursing vacation expenses, and subsidizing recreational activities such as athletic leagues are considered "other benefits". The provision of child-care facilities for preschool and school-age dependents are also considered "other benefits". The provision of job readjustment allowances, income maintenance payments in the event of economic dislocation, temporary living expense loans and grants at times of disaster (such as fire or flood), supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D)(i) of the Code), severance benefits (under a severance pay plan within the meaning of 29 CFR § 2510.3-2(b)) and education or training benefits or courses (such as apprentice training programs) for members, are considered "other benefits" because they protect against a contingency that interrupts earning power. Personal legal service benefits which consist of payments or credits to one or more organizations or trusts described in section 501(c)(20) are considered "other benefits". Except to

the extent otherwise provided in these regulations, as amended from time to time, "other benefits" also include any benefit provided in the manner permitted by paragraphs (5) *et seq.* of section 302(c) of the Labor Management Relations Act of 1947, 61 Stat. 136, *as amended*, 29 U.S.C. 186(c) (1979).

(f) *Examples of nonqualifying benefits.* Benefits that are not described in paragraphs (d) or (e) of this section are not "other benefits". Thus, "other benefits" do not include the payment of commuting expenses, such as bridge tolls or train fares, the provision of accident or homeowner's insurance benefits for damage to property, the provision of malpractice insurance, or the provision of loans to members except in times of distress (as permitted by § 1.501(c)(9)–3(e)). "Other benefits" also do not include the provision of savings facilities for members. The term "other benefits" does not include any benefit that is similar to a pension or annuity payable at the time of mandatory or voluntary retirement, or a benefit that is similar to the benefit provided under a stock bonus or profit-sharing plan. For purposes of section 501(c)(9) and these regulations, a benefit will be considered similar to that provided under a pension, annuity, stock bonus or profit-sharing plan if it provides for deferred compensation that becomes payable by reason of the passage of time, rather than as the result of an unanticipated event. Thus, for example, supplemental unemployment benefits, which generally become payable by reason of unanticipated layoff, are not, for purposes of these regulations, considered similar to the benefit provided under a pension, annuity, stock bonus or profit-sharing plan.

(g) *Examples.* The provisions of this section may be further illustrated by the following examples:

*Example (1).* V was organized in connection with a vacation plan created pursuant to a collective bargaining agreement between M, a labor union, which represents certain hourly paid employees of T corporation, and T. The agreement calls for the payment by T to V of a specified sum per hour worked by T employees who are covered by the collective bargaining agreement. T includes the amounts in the covered employees' wages and withholds income and FICA taxes. The amounts are paid by T to V to provide vacation benefits provided under the collective bargaining agreement. Generally, each covered employee receives a check in payment of his or her vacation benefit during the year following the year in which contributions were made by T to V. The amount of the vacation benefit is determined by reference to the contributions during the prior year to V by T on behalf of each employee, and is distributed in cash to each such employee. If the earnings on investments by V during the year preceding distribution are sufficient after deducting the expenses of administering the plan, each recipient of a vacation benefit is paid an amount, in addition to the contributions on his or her behalf, equal to his/her ratable share of the net earnings of V during such year. The plan provides a vacation benefit that constitutes an eligible "other benefit" described in section 501(c)(9) and § 1.501(c)(9)–3(e).

*Example (2).* The facts are the same as in Example 1, except that each covered employee of T is entitled, at his or her discretion, to contribute up to an additional $1,000 each year to V, which agrees in respect of such sum to pay interest at a stated rate from the time of contribution until the time at which the contributing employee's vacation benefit is distributed. In addition, each employee may elect to leave all or a portion of his/her distributable benefit on deposit past the time of distribution, in which case interest will continue to accrue. Because the plan more closely resembles a savings arrangement than a vacation plan, the benefit payable to the covered employees of T is not a "vacation benefit" and is not an eligible "other benefit" described in section 501(c)(9) and § 1.501(c)(9)–3 (d) or (e).

### § 1.501(c)(9)–4 Voluntary employees' beneficiary associations; inurement.

(a) *General rule.* No part of the net earnings of an employees' association may inure to the benefit of any private shareholder or individual other than through the payment of benefits permitted by § 1.501(c)(9)–3. The disposition of property to, or the performance of services for, a person for less than the greater of fair market value or cost (including indirect costs) to the association, other than as a life, sick, accident or other permissible benefit, constitutes prohibited inurement. Generally, the payment of unreasonable compensation to the trustees or employees of the association, or the purchase of insurance or services for amounts in excess of their fair market value from a company in which one or more of the association's trustees, officers or fiduciaries has an interest, will constitute prohibited inurement. Whether prohibited inurement has occurred is a question to be determined with regard to all of the facts and circumstances, taking into account the guidelines set forth in this section. The guidelines and examples contained in this section are not an exhaustive list of the activities that may constitute prohibited inurement, or the persons to whom the association's earnings could impermissibly inure. See § 1.501(a)–1(c).

(b) *Disproportionate benefits.* For purposes of subsection (a), the payment to any member of disproportionate benefits, where such payment is not pursuant to objective and nondiscriminatory standards, will not be considered a benefit within the meaning of § 1.501(c)(9)–3 even though the benefit otherwise is one of the type permitted by that section. For example, the payment to highly compensated personnel of benefits that are disproportionate in relation to benefits received by other members of the association will constitute prohibited inurement. Also, the payment to similarly situated employees of benefits that differ in kind or amount will constitute prohibited inurement unless the difference can be justified on the basis of objective and reasonable standards adopted by the association or on the basis of standards adopted pursuant to the terms of a collective bargaining agreement. In general, benefits paid pursuant to standards or subject to conditions that do not provide for disproportionate benefits to officers, shareholders, or highly compensated employees will not be considered disproportionate. See § 1.501(c)(9)–2(a)(2) and (3).

(c) *Rebates.* The rebate of excess insurance premiums, based on the mortality or morbidity experience of the insurer to which the premiums were paid, to the person or persons whose contributions were applied to such premiums, does not constitute prohibited inurement. A voluntary employees' beneficiary association may also make administrative adjustments strictly incidental to the provision of benefits to its members.

(d) *Termination of plan or dissolution of association.* It will not constitute prohibited inurement if, on termination of a plan established by an employer and funded through an association described in section 501(c)(9), any assets remaining in the association, after satisfaction of all liabilities to existing beneficiaries of the plan, are applied to provide, either directly or through the purchase of insurance, life, sick, accident or other benefits within the meaning of § 1.501(c)(9)–3 pursuant to criteria that do not provide for disproportionate benefits to officers, shareholders, or highly compensated employees of the employer. See § 1.501(c)(9)–2(a)(2). Similarly, a distribution to members upon the dissolution of the association will not constitute prohibited inurement if the amount distributed to members are determined pursuant to to the terms of a collective bargaining agreement or on the basis of objective and reasonable standards which do not result in either unequal payments to similarly situated members or in disproportionate

payments to officers, shareholders, or highly compensated employees of an employer contributing to or otherwise funding the employees' association. Except as otherwise provided in the first sentence of this paragraph, if the association's corporate charter, articles of association, trust instrument, or other written instrument by which the association was created, as amended from time to time, provides that on dissolution its assets will be distributed to its members' contributing employers, or if in the absence of such provision the law of the state in which the association was created provides for such distribution to the contributing employers, the association is not described in section 501(c)(9).

(e) *Example.* The provisions of this section may be illustrated by the following example:

*Example.* Employees A, B and C, members of the X voluntary employees' beneficiary association, are unemployed. They receive unemployment benefits from X. Those to A include an amount in addition to those provided to B and C, to provide for A's retraining. B has been found pursuant to objective and reasonable standards not to qualify for the retraining program. C, although eligible for retraining benefits has declined. X's additional payment to A for retraining does not constitute prohibited inurement.

**§ 1.501(c)(9)–5 Voluntary employees' beneficiary associations; recordkeeping requirements.**

(a) *Records.* In addition to such other records which may be required (for example, by section 512(a)(3) and the regulations thereunder), every organization described in section 501(c)(9) must maintain records indicating the amount contributed by each member and contributing employer, and the amount and type of benefits paid by the organization to or on behalf of each member.

(b) *Cross reference.* For provisions relating to annual information returns with respect to payments, see section 6041 and the regulations thereunder.

**§ 1.501(c)(9)–6 Voluntary employees' beneficiary associations; benefits includible in gross income.**

(a) *In general.* Cash and noncash benefits realized by a person on account of the activities of an organization described in section 501(c)(9) shall be included in gross income to the extent provided in the Internal Revenue Code of 1954, including, but not limited to, sections 61, 72, 101, 104 and 105 of the Code and regulations thereunder.

(b) *Availability of statutory exclusions from gross income.* The availability of any statutory exclusion from gross income with respect to contributions to, or the payment of benefits from, an organization described in section 501(c)(9) is determined by the statutory provision conferring the exclusion, and the regulations and rulings thereunder, not by whether an individual is eligible for membership in the organization or by the permissibility of the benefit paid. Thus, for example, if a benefit is paid by an employer-funded organization described in section 501(c)(9) to a member who is not an "employee", a statutory exclusion from gross income that is available only for "employees" would be unavailable in the case of a benefit paid to such individual. Similarly, the fact that, for example, under some circumstances educational benefits constitute "other benefits" does not of itself mean that such benefits are eligible for the exclusion of either section 117 or section 127 of the Code.

**§ 1.501(c)(9)–7 Voluntary employees' beneficiary associations; section 3(4) of ERISA.**

The term "voluntary employees' beneficiary association" in section 501(c)(9) of the Internal Revenue Code is not necessarily coextensive with the term "employees' beneficiary association" as used in section 3(4) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1002(4), and the requirements which an organization must meet to be an "employees' beneficiary association" within the meaning of section 3(4) of ERISA are not necessarily identical to the requirements that an organization must meet in order to be a "voluntary employees' beneficiary association" within the meaning of section 501(c)(9) of the Code.

**§ 1.501(c)(9)–8 Voluntary employees' beneficiary associations; effective date.**

(a) *General rule.* Except as otherwise provided in this section, the provisions of §§ 1.501(c)(9)–1 through 7 shall apply with respect to taxable years beginning after December 31, 1954.

(b) *Pre-1970 taxable years.* For taxable years beginning before January 1, 1970, section 501(c)(9)(B) (relating to the requirement that 85 percent or more of the association's income consist of amounts collected from members and contributed by employers), as in effect for such years, shall apply.

(c) *Existing associations.* Except as otherwise provided in paragraph (d), the provisions of §§ 1.501(c)(9)–2(a)(1) and (c)(3) shall apply with respect to taxable years beginning after December 31, 1980.

(d) *Collectively-bargained plans.* In the case of a voluntary employees' beneficiary association which receives contributions from one or more employers pursuant to one or more collective bargaining agreements in effect on December 31, 1980, the provisions of §§ 1.501(c)(9)–1 through 5 shall apply with respect to taxable years beginning after the date on which the agreement terminates (determined without regard to any extension thereof agreed to after December 31, 1980).

(e) Notwithstanding paragraphs (c) and (d) of this section, an organization may choose to be subject to all or a portion of one or more of the provisions of these regulations for any taxable year beginning after December 31, 1954.

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

**William E. Williams,**

*Acting Commissioner of Internal Revenue.*

Approved: December 30, 1980.

**Emil M. Sunley,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 80-40835 Filed 12-30-80; 4:00 pm]

BILLING CODE 4830-01-M

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## Bureau of Alcohol, Tobacco and Firearms

### 27 CFR Part 4

**[T.D. ATF-76; Re: Notice No. 335]**

## Standards of Fill for Wine

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms is (1) adopting a 50 milliliter standard of fill for wine; (2) deleting the bottles per case requirement for wine; and (3) making conforming changes throughout Part 4 to accommodate the conversion of wine to the metric standards of fill on January 1, 1979. These amendments are made in response to an industry request to add a 50 ml size to the standards of fill, and to update the regulations.

**DATE:** These regulations are effective on February 6, 1981.

**FOR FURTHER INFORMATION CONTACT:** Charles N. Bacon, Research and Regulations Branch, Telephone: 202–566–7626.

**SUPPLEMENTARY INFORMATION:**

### Petition for 50 Milliliter Wine Size

On March 17, 1980, ATF published in the **Federal Register** a notice of proposed rulemaking to add a 50 milliliter size to the standards of fill for wine [Notice No. 335, 45 FR 17025]. The proposal would amend § 4.73 to add 50 milliliters to the sizes in which wine may be bottled or imported.

The proposed 50 ml size (1.7 fluid ounces) resulted from a petition submitted by the National Association of Beverage Importers (NABI), a trade association representing importers of alcoholic beverages. their petition requested a 50 ml size to replace the 2 fluid ounce size formerly used for bottling individual servings of wine. Although any type of wine could be bottled in the 2 fl. oz. size, NABI noted that its primary use was in bottling single-person servings of sherry or port wine for use on aircraft or railroads. Furthermore, NABI pointed out that the 2.0 fluid ounce size was not replaced when the metric standards of fill were adopted, and that the closest metric size of 100 ml (3.4 fl. oz.) is 70% larger. In addition, many airlines stated their beverage carts would not accommodate 100 ml bottles. Therefore, NABI requested addition of the 50 ml to the metric standards of fill. ATF received letters from several airlines supporting NABI's petition.

**Summary of Public Comments**

ATF received 19 written comments in response to the proposal for the 50 ml standard of fill. Ten comments were from consumers, with most favoring the adoption of a small size for wine. Several consumers noted that the proposed 50 ml size would allow the sale of port or sherry wines on aircraft and railroads, and would give the traveling public a wine alternative to the purchase of distilled spirits products.

Several industry members and their associations also commented; all but one favored the adoption of the 50 ml size. NABI noted that the miniature market for sherry and port wines had continued to grow in the United States and that the market for these products in 1979 was expected to be approximately 38,000 cases, a substantial increase from 22,000 cases in 1975. They further stated that the European Economic Community (EEC) authorizes a 50 ml standard of fill for wines, and that this size is used worldwide for the bottling of single-serving sizes of sherry and port wines. American importers especially favored the authorization of the 50 ml size in order for them to continue supplying their customers with single-serving wine bottles.

A few consumers were opposed to reducing the size of the miniature bottle from 2.0 fl. oz. formerly used to 50 ml (1.7 fl. oz.). These consumers felt that 50 ml represents a very small serving of wine, and that the price of this bottle would not be less to consumers than the 2.0 fl. oz. size, even though 50 ml is 15% smaller.

ATF notes that although any wine could be bottled in the proposed 50 ml size, it is expected that only dessert wines such as sherry or port would be bottled in this size. We expect that single servings of table wines would continue to be bottled in other larger, more appropriate sizes such as 187 ml (6.3 fl. oz.).

ATF also notes that it cannot regulate price decisions made by industry members since the FAA Act does not grant the Government that authority. Any price change accompanying the introduction of a new wine size would, therefore, be a marketing decision by the companies involved. ATF has, however, informed the Council on Wage and Price Stability of this proposed change.

The Wine Institute, a trade association representing many California wineries and wine growers, opposed the proposal. They contended that the presently-authorized 100 ml satisfies the need for a single-serving portion of wine, and that the 50 ml would unnecessarily increase the number of wine sizes. Wine Institute further noted that the 50 ml size would primarily benefit foreign bottlers of port and sherry wine.

**Authorization of 50 ml Standard of Fill**

On the basis of all comments, ATF is adding a 50 ml size to the standards of fill for wine. This will make available to consumers a wine package serving a well-established market. Authorization of a 50 ml size will also allow the United States to use the same bottle as used within the EEC for individual servings of certain wines; as a result, producers will not need to make special bottlings of wine in other sizes to accommodate the United States market.

ATF is, therefore, amending § 4.73 to add 50 ml to the metric standards of fill. In addition, § 4.37(b) is being amended to include the optional statement of equivalent fluid ounces (1.7 fl. ounces).

**Bottles Per Case Requirement**

ATF is deleting the bottles per case requirement for wine, § 4.74. This section currently requires that metric wine bottles be packed with a standard number of bottles in each case.

The requirement to pack wine in standard cases was adopted with metric standards of fill in 1975. Standard cases were expected to facilitate taxpayment of metric cases, and to simplify the warehousing and inventorying of wine cases.

Since then, ATF amended § 4.74 by allowing a bottler or importer to receive an exemption when good cause could be shown. These variations from the case requirements are granted when bottles are too large or heavy to be packed in standard cases, or when State law requires other case sizes.

Since the authorization of exemptions, ATF has received many requests for variances due to unusual bottle shapes or to bottles which are too heavy to pack in standard cases. ATF is now receiving requests by industry members who wish, for marketing reasons, to package wine in cases of other sizes. For example, some retailers are reluctant to take full cases of new or slow-moving products. In other instances, bottlers wish the additional flexibility to market cases containing fewer bottles than required. The number of these variances has created a hardship both for industry and for Government. In instances now when bottlers wish to ship half cases to wholesalers, ATF Ruling 78–5 requires them to strap two half cases together in order to satisfy this requirement. ATF feels the bottles per case requirement creates a hardship on industry members and is unnecessary. Accordingly, § 4.74 is being deleted, and the reference to § 4.74 is deleted in §§ 4.46 and 4.70.

A similar requirement for packing a standard number of bottles per case for distilled spirits was deleted by Treasury Decision ATF–62, effective January 1, 1980. Thus, this change in Part 4 merely conforms the bottles per case requirement to that now applying to distilled spirits in Part 5. This change is liberalizing, does not impose any requirements on winery proprietors or importers, and does not affect the rights of any winery proprietors or importers.

**Conforming Changes to the Mandatory Metric Standards of Fill**

Metric standards of fill for wine became mandatory on January 1, 1979. On that date, all wine was required to be bottled in the standard metric sizes prescribed in § 4.73. ATF is, therefore, making conforming changes throughout Part 4. The reference to the mandatory bottling date of January 1, 1979, is being deleted wherever it appears. Also, the effective date of the metric standards of fill, § 4.73(e) is being deleted as is § 4.73(d), Completeness of conversion.

**Drafting Information**

The principal author of this document is Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

**Authority and Issuance**

These regulations are issued under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)).

In view of the above, the Director is amending 27 CFR Part 4 as follows:

**Paragraph 1.** By amending the table of sections by removing § 4.74, and by revising the title of § 4.46 to read "Certificate of nonstandard of fill." As amended, the table of sections reads as follows:

**PART 4—LABELING AND ADVERTISING OF WINE**

* * * * *

**Subpart E—Requirements for Withdrawal of Wine From Customs Custody**

* * * * *

Sec.
4.46 Certificate of nonstandard fill.
* * * * *

**Subpart H—Standards of Fill for Wine**

* * * * *

§ 4.74 [Reserved]

**Paragraph 2.** By amending § 4.37 by (1) adding 50 milliliters (1.7 fl. oz.) to the list of standard metric sizes in paragraph (b)(1); by (2) deleting in paragraphs (a), (a)(2), and (b) the references to wine bottled according to the U.S. standards of fill under § 4.72 and deleting the references to the mandatory bottling date; and by (3) removing paragraph (c) as obsolete and redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e), respectively. As amended, § 4.37 reads as follows:

**§ 4.37 Net contents.**

(a) *Statement of net contents.* The net contents of wine for which a standard of fill is prescribed in § 4.73 shall be stated in the same manner and form as set forth in the standard of fill. The net content of wine for which no standard of fill is prescribed in § 4.73 shall be stated in the metric system of measure as follows:

(1) * * *

(2) If less than one liter, net contents shall be stated in milliliters (ml).

(b) *Statement of U.S. equivalent net contents.* When net contents of wine are stated in metric measure, the equivalent volume in U.S. measure may also be shown. If shown, the U.S. equivalent volume will be shown as follows:

(1) For the metric standards of fill: 3 liters (101 fl. oz.); 1.5 liters (50.7 fl. oz.); 1 liter (33.8 fl. oz.); 750 ml (25.4 fl. oz.); 375 ml (12.7 fl. oz.); 187 ml (6.3 fl. oz.); 100 ml (3.4 fl. oz.); and 50 ml (1.7 fl. oz.).

* * * * *

(c) *Net contents market in bottle.* * * *

(d) *Tolerances.* * * *

(e) *Unreasonable shortages.* * * *

**Paragraph 3.** By amending § 4.46 by (1) removing existing paragraph (b) which refers to standard metric cases; (2) redesignating the remaining paragraphs; and (3) revising the section title. As revised, § 4.46 reads as follows:

**§ 4.46 Certificate of nonstandard fill.**

A person may import wine in containers not conforming to the metric standards of fill prescribed at § 4.73 if the wine is—

(a) Accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the wine was bottled or packed before January 1, 1979;

(b) Being withdrawn from a Customs bonded warehouse into which it was entered before January 1, 1979; or

(c) Exempt from the standard of fill requirements as provided by § 4.70(b)(1) or (2).

**Paragraph 4.** By amending § 4.70 by removing the reference to 4.74 where it appears in paragraphs (b) and (c). The amended portions of § 4.70 read as follows:

**§ 4.70 Application.**

* * * * *

(b) Sections 4.70–4.73 do not apply to—

* * * * *

(c) Section 4.73 does not apply to wine domestically bottled or packed, either in or out of customs custody, before January 1, 1979, if the wine was bottled or packed according to the standards of fill prescribed by § 4.72.

**Paragraph 5.** By amending § 4.72 by revising paragraph (c) to state that the section does not apply after December 31, 1978. As amended, § 4.72 reads as follows:

**§ 4.72 Standards of fill.**

* * * * *

(c) This section does not apply after December 31, 1978.

**Paragraph 6.** By amending § 4.73 by adding 50 milliliters to the standards of fill in paragraph (a), and by removing paragraphs (d) and (e). As amended, § 4.73 reads as follows:

**§ 4.73 Metric standards of fill.**

(a) *Authorized standards of fill.* The standards of fill for wine are the following:

3 liters
1.5 liters
1 liter
750 milliliters
375 milliliters
187 milliliters
100 milliliters
50 milliliters

(b) *Sizes larger than 3 liters.* * * *

(c) *Tolerances.* * * *

**§ 4.74 [Removed]**

**Paragraph 7.** By removing § 4.74, Bottles per shipping case.

Signed: November 14, 1980.

**G. R. Dickerson,**
*Director.*

Approved: December 15, 1980.

**Richard J. Davis,**
*Assistant Secretary (Enforcement and Operations).*

[FR Doc. 81-405 Filed 1-6-81; 8:45 am]

BILLING CODE 4810-31-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 123 (Subpart F)

[SW-4-FRL 1716-6]

### Mississippi's Application for Phase I Interim Authorization of a State Hazardous Waste Management Program

**AGENCY:** Environmental Protection Agency, Region IV.

**ACTION:** Notice of Final Determination.

**SUMMARY:** The purpose of this notice is to announce the final determination that has been made in regard to an application for Phase I Interim Authorization submitted by the State of Mississippi.

The Environmental Protection Agency has reviewed Mississippi's Application for Interim Authorization and has determined that Mississippi's Hazardous Waste Program is substantially equivalent to the Federal program as defined by regulations promulgated under the Resource Conservation and Recovery Act of 1976 (RCRA). The State of Mississippi is hereby granted interim authorization to operate the State program in lieu of Subtitle C hazardous waste management program (Phase I) in accordance with Section 3006(c) of RCRA and implementing regulations found in 40 CFR Subpart F.

**EFFECTIVE DATE:** Interim Authorization, Phase I, for Mississippi shall become effective on January 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** John Sullivan, Residuals Management Branch, U.S. EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone (404) 881-3936.

**SUPPLEMENTARY INFORMATION:** In the May 19, 1980, **Federal Register** (45 FR 33063), the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976

(RCRA), to protect human health and the environment from the improper management of hazardous wastes. The Act (RCRA) includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive final authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program will be implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of Mississippi submitted its draft application for Phase I Interim Authorization on August 12, 1980. After detailed review, EPA identified several areas of major concern and transmitted comments to the State for its consideration. The State subsequently made revisions to its Application for Phase I Interim Authorization in order to clarify those aspects of its program which had been questioned during the EPA review.

On September 26, 1980, Mississippi submitted to EPA a Final Application for Phase I Interim Authorization under RCRA. An EPA review team consisting of both Headquarters and Regional Office personnel made a detailed analysis of Mississippi's hazardous waste management program. The following issues were raised by the review team:

(a) The Attorney General must demonstrate that State law provides authority for officers to enter hazardous waste storage facilities or transporters.

(b) The Attorney General needs to expand remarks explaining its authority to immediately restrain, by Administrative Order or by suit in State court, any person from engaging in activity which is endangering or causing damage to public health or the environment.

(c) The State of Mississippi must show authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement.

(d) The Attorney General's Statement must clearly explain State program provisions for public participation in State administrative or court enforcement actions.

To resolve these issues the State made revisions mainly in the Attorney General's Statement and also minor changes in the MOA and Program Description.

(a) The Attorney General cited authority granting the Board of Health power to make regulations for entry and inspection substantially equivalent to Federal entry and inspection authority.

(b) The Attorney General's Statement was amended to include further citations of State statutes, regulations and court decisions authorizing orders to immediately restrain certain activities.

(c) The Attorney General cited further State statutes supporting the State's ability to sue in courts. Some of the arguments regarding immediate restraint authority were also applicable to this authority. The State has also shown through its Authorization Plan, a firm commitment to seek clear statutory authority to seek injunctions within six months.

(d) The State amended the Program Description, MOA, and Attorney General's Statement to provide for public participation as required in 40 CFR 123.128.

Responsiveness Summary: As noticed in the **Federal Register** on October 3, 1980 (45 FR 65632), EPA gave the public until November 11, 1980, to comment on the State's application. EPA also held a public hearing in Jackson, Mississippi, on November 5, 1980. The oral comments received at the public hearing and written comments submitted directly to EPA are summarized below along with EPA's responses.

Five individuals spoke at the public hearing and three written comments were received. Their comments and EPA's responses are presented below:

Comment: Three speakers and two letters supported Mississippi's application.

Response: No EPA response is required.

Comment: At the November 5 hearing, a Mississippi State senator stated his willingness to introduce whatever legislation is necessary and required to see that this program is properly staffed and funded.

Response: No EPA response is required.

Comment: A speaker felt that using an EPA waste code and a DOT waste description was an undue Federal burden on generators who must manifest their waste.

Response: EPA does not require a specific manifest form but does require certain information on the manifest. This requirement at 40 CFR 262.21 does include the DOT description of wastes but does not require the EPA waste code. Each State may require a manifest form as they deem necessary for their program.

Comment: One commenter complained that the application was voluminous and expensive to copy.

Response: A large part of the State's application is the State's laws and regulations. Copies of regulations should be available for distribution. The program description, if read alone, should give the reader a good understanding of how the State plans to run its hazardous waste management program.

Comment: One speaker argued that EPA's response to Mississippi's application should have been available for public comment.

Response: The comments EPA sent to the State are not part of the State's application and were not required to be available at the public hearing. The State normally responds to these comments by amending its application. This response should be available to the public.

Comment: One commenter had several problems with the State enforcement program. One complaint was the lack of citizen participation in violation hearings. Another complaint was the perceived lack of authority over out-of-state waste.

Response: Mississippi has agreed to give public notice on any proposed settlement of a State enforcement action. The State also lists citizen participation as an area where future legislation is planned. The State does have authority over out-of-state wastes as soon as they enter the State. No State can enforce any regulations beyond its State boundary.

Comments: Two commenters brought up the fact that State law requires State regulations be "equivalent to" the Federal regulations. One speaker thought State regulations must be "as stringent as" Federal regulations according to State Law. Another speaker argued that the State was not allowed enough freedom in tailoring their regulations to suit the particular needs of the State.

Response: The Interim Authorization package contains amendments to the State Law that are in effect and require regulations "be equivalent to" Federal regulations. Mississippi law directs the Board of Health to pass regulations so that the State can obtain Interim Authorization as requested by the Governor. Although the State may obtain Interim Authorization by having a program "substantially equivalent," the State program must be "equivalent" before the State may receive final Authorization.

EPA must require a certain amount of consistency to ensure that hazardous

waste will be properly managed in all States (Section 3006, RCRA). The definition and listings of wastes must be consistent among States so that interstate shipments will be regulated from cradle to grave. Even with nearly identical regulations, the State will have considerable freedom to tailor their program to meet the needs of the State.

Comments: A commenter was concerned about possible plans to convert a class A landfill to a hazardous waste disposal site and also concerned about the possible move of the Solid Waste Management Division to the Department of Natural Resources.

Response: The State would have to treat any landfill conversion just as they would any disposal site. If the conversion is made after November 19, 1980, the facility will not qualify for Interim Status to operate prior to receiving a RCRA permit. The State will not be authorized to issue a RCRA permit until the State receives Phase II Interim or Final Authorization.

If the State decides to move the Division of Solid Waste Management, during Interim Authorization, a new MOA would have to be signed with EPA. At that time, EPA will decide whether the State program continues to be substantially equivalent. If the program is no longer substantially equivalent, EPA would withdraw the program.

Comment: A commenter felt the State had no power other than court injunction to restrain illegal activities.

Response: The State Board of Health may restrain illegal activities through administrative orders. (Mississippi regulation 402.11–1(h))

Comment: One commenter felt that the frequency of inspections by the State was not enough and that the State required 90 days notice before inspection.

Response: The State meets EPA's requirements for inspection frequency and inspections may occur at any time and especially in response to complaints.

Comment: One commenter responded to three issues EPA had raised after reviewing the Mississippi application. The commenter argued that the three points had been addressed sufficiently by the Mississippi Attorney General. The three issues are: entry and inspection authority; authority to sue to enjoin any threatened or continuing program violations; and ability to immediately restrain.

Response: On November 7, 1980, the Mississippi Assistant Attorney General responded to the three issues raised by EPA. The response included additional evidence to support previous determinations in the Attorney General's Statement.

Comment: A commenter felt that EPA should expedite authorization of the State program since "it is a simple fact that EPA does not have the finances nor the resources to administer or enforce this program in the various States by November 19th or during a subsequent interim period of any length of time at all."

Response: EPA will decide whether to give Mississippi Interim Authorization solely on the merits of the State's application. On November 19, 1980, EPA will run the hazardous waste program in any State that has not received Interim Authorization. The goal of Interim Authorization is to avoid duplication of Federal and State requirements by allowing qualified State programs to operate in lieu of the Federal program.

Comment: One commenter questioned whether the State's application is sufficient to safeguard residents near proposed disposal sites.

Response: The State has adopted regulations substantially equivalent to the Federal Interim Status regulations (40 CFR 265) for disposal sites. These regulations and the final regulations (40 CFR 264) are designed to ensure the safety of residents near disposal sites.

Comment: One commenter questioned the future enforcement performance of the State based on its past record.

Response: The State passed regulations which became effective November 19, 1980, and until that date, there has been no record of the State enforcing hazardous waste regulations. The State could have enforced under the imminent hazard provisions of its law but neither the State nor EPA has determined that an imminent hazard existed in Mississippi.

Comment: A speaker felt that counties were not given sufficient voice in siting or operation of facilities. One commenter noted the "maximum involvement of all interested parties" in the development of the State program.

Response: Besides the guarantees of public participation in permitting, where State law permits, counties may affect siting through local zoning ordinances. The State will not issue full RCRA permits to existing facilities or permit new facilities under Phase I Interim Authorization.

Comment: A commenter felt that the State should extend the period of post-closure care for sites beyond the 30 year required period.

Response: The State regulations, as do the Federal, allow anyone to request an extension of post-closure care beyond the required 30 years. These petitions will be considered at the time the post-closure plan is submitted and at five year intervals after the completion of closure. (Mississippi Regulations 402.7–117(d))

Comment: A commenter was concerned about the statewide and local enforcement of transportation standards.

Response: The State has included in its application a Memorandum of Understanding with the United States Department of Transportation and the Mississippi Public Service Commission. These two MOU's explain how the State plans to accomplish an equitable statewide enforcement of hazardous waste transportation regulations. The State's laws, regulations, and enforcement program must be judged substantially equivalent before the State is granted Interim Authorization. If, during Interim Authorization, the program is not enforced, EPA may withdraw Interim Authorization or withhold Final Authorization. Local governments with authority to inspect transporters can inspect transporters and, if violations are discovered, they may submit complaints to the State for enforcement.

Comment: Concern was voiced over whether the State could help companies locate disposal sites while judging their applications in an unbiased manner.

Response: Siting of hazardous waste management facilities is one of the most difficult program elements for any State. The more involvement the State has in siting of new facilities, the more likely the facility will be designed to suit the particular needs of the State. A major part of the State's responsibility in permitting will be to make sure a facility application sufficiently describes a site and its operation.

Comment: A commenter states that a MOU should be negotiated with the Mississippi Emergency Management Agency.

Response: The State has furnished a 24-hour telephone number for State emergency response in the Memorandum of Agreement with the EPA. The State will be responsible for seeing that local agencies are informed and involved in emergency responses as required by State law. In the case of facilities, the contingency plan should contain local emergency response unit telephone numbers. In the case of interstate transportation,

the transporter may have to rely on a national response number. Intrastate transporters will be assured of having the proper State response number.

Comment: One commenter questioned whether Mississippi is legally entitled to Interim Authorization based on the criteria that a State has to have an effective State hazardous waste program in existence as of August 17, 1980.

Response: EPA interprets the word "program" as used above to mean enabling legislation only. (See Federal Register dated May 19, 1980, page 33387.) In addition, all aspects of the State program must be "substantially equivalent" to the Federal program by the time Interim Authorization is actually granted. Mississippi is in compliance with these requirements in that it had enacted enabling legislation before August 17, 1980, and its program will be substantially equivalent to the Federal program on November 19, 1980, when its regulations become effective.

Comment: One commenter expressed concern over the regulations governing the transportation of hazardous wastes. In particular, he was concerned that the EPA, U.S. Department of Transportation, and State regulations be uniform so as to minimize the difficulties that interstate transporters would face. The commenter requested that States which receive Interim Authorization be required to comply with a general provision which would allow that a carrier who was in compliance with the Federal requirements would be deemed to be in compliance with State requirements as well.

Finally, with regard to any subsequent change in the rules affecting rail carriers, the commenter requested that the State be required to amend its regulations accordingly.

Response: EPA shares the commenter's concerns regarding the interstate movement of hazardous wastes. Mississippi's regulations require transporters in any mode to comply with standards identical to the Federal standards.

Because the State program is expected to operate "in lieu of" the Federal program, EPA cannot require the State to set aside its rules without due process. However, the State is required to modify its regulations within one year of the date of promulgation (see 40 CFR § 123.13(e)), unless a statutory change is required. Two years will be allowed for making statutory changes.

Because the Federal regulations allow States to have more stringent standards than Federal standards for transporters, compliance with Federal standards cannot necessarily assure compliance with those State standards which are more stringent. However, a State's transportation requirements must not place an undue burden so as to interfere with interstate commerce.

Dated: December 30, 1980.

**Rebecca W. Hanmer,**

*Regional Administrator.*

[FR Doc. 81-453 Filed 1-6-81; 8:45 am]

BILLING CODE 6560-30-M

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### 41 CFR Part 14-2

### Protests Against Awards

**AGENCY:** Department of the Interior.

**ACTION:** Final rule.

**SUMMARY:** The Interior Procurement Regulations are hereby revised to transfer the responsibility for handling bid protests filed in the General Accounting Office. The responsible office is hereby changed from the Office of Acquisition and Property Management to the Office of the Solicitor. This action is taken pursuant to recommendations following a departmental review of legal activities within the Office of the Secretary and its Bureaus and Offices.

**DATE:** Effective date of the revision shall be January 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** Peter Kolls, Division of Acquisition and Grants, Office of Acquisition and Property Management, Department of, the Interior, (202) 343-5914.

**SUPPLEMENTARY INFORMATION:** The primary author of this rule is Peter Kolls, Division of Acquisition and Grants, Office of Acquisition and Property Management, Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240, telephone (202) 343-6431.

Waiver: It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments contained herein are entirely administrative in nature and public participation would serve no useful purpose. Therefore, the public rulemaking process is waived in accordance with 5 U.S.C. 553.

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

Accordingly, 41 CFR Chapter 14 is amended as stated below, pursuant to the authority of the Secretary of the Interior contained in Section 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and 5 U.S.C. 301.

Dated: December 24, 1980.

**William L. Kendig,**

*Deputy Assistant Secretary of the Interior.*

## PART 14-2—PROCUREMENT BY FORMAL ADVERTISING

### Subpart 14-2.4—Opening of Bids and Award of Contract

§ 14-2.407-8 is amended by deleting paragraphs (b) through (h) and inserting the following:

**§ 14-2.407-8 Protests against award.**

* * * * *

(b) *Responsibility.* The Office of the Solicitor shall be responsible for handling bid protests filed in the General Accounting Office. All communications relative to protests at the GAO shall be coordinated with the Assistant Solicitor for Procurement.

(c) *Notice of Protest.* Upon being advised by the GAO of the receipt of a protest, the Office of the Solicitor will inform the appropriate procuring activity which will immediately notify the contracting officer. The contracting officer shall then promptly notify all interested parties by telephone that a protest has been filed with the GAO. A written record of such telephonic notices shall be placed in the procurement file. After receiving a copy of the protest from GAO and its request for an administrative report, the Office of the Solicitor will promptly furnish the same to the procuring activity which shall in turn promptly transmit copies to the contracting officer and request a written report. The contracting officer shall promptly transmit by letter a copy of the protest to all interested parties. Copies of such cover letters shall be sent concurrently to the Assistant Solicitor for Procurement. Cover letters should contain the advice contained in § 1-2.407-8(a)(3) of this title, including instructions that any comments submitted to GAO should also be submitted to the contracting officer and the Assistant Solicitor for Procurement.

(d) *Submission of report.* (1) All personnel shall handle protests on a priority basis. Within 25 working days after receipt by the Office of the Solicitor of the GAO's request for an administrative report, such report or a statement setting forth the reasons for delay and the expected date of submission shall be submitted to the GAO. The procuring activity will have

no more than 20 working days from receipt of the request for an administrative report from the Solicitor's Office to deliver such report, to the Assistant Solicitor for Procurement. (2) The administrative report responsive to the protest, shall be appropriately titled and dated, shall cite the GAO file number, shall include the documents and statements required by § 1–2.407–8(a)(2) of this title and shall be signed by the contracting officer or his representative. Reports shall be prepared with the assistance of the local legal counsel of the Department. If appropriate, the report shall contain a statement regarding any urgency for the procurement and the extent to which a delay in award may result in significant performance difficulties or additional expense to the Government. If award is not urgent, a statement shall be included giving an estimate of the length of time an award may be delayed without significant expense or difficulty in performance. The procuring activity shall submit an original and four complete copies of the contracting officer's report to the Assistant Solicitor for Procurement plus one complete copy for each interested party. Contracting officers must assure that no trade secrets or commercial or financial information which is privileged or confidential is disclosed to those not authorized to have access thereto. Transmittal letters forwarding the report to the GAO and to interested parties will be prepared by the Office of the Solicitor. All reports to GAO will be reviewed and surnamed by the Chief, Division of Acquisition and Grants prior to submittal to GAO. The review will be completed within three workings days of receipt from the Solicitor's Office.

(e) *Determination to Make Award.* (1) If a written protest before award has been lodged with the procuring activity only, the procedures of § 1–2.407–8(b) of this title shall be followed. Prior to making an award of a contract under the circumstances set forth in § 1–2.407–8(b)(4) of this title, the contracting officer shall obtain the advice of the appropriate office of the Solicitor. (2) If a protest before award has been lodged directly with the GAO and the contracting officer determines in writing that it is necessary to make an award under § 1–2.407–8(b)(4) of this title, such determination must be approved by the head of the procuring activity concerned and by the Director, Office of Acquisition and Property Management who shall consult with the Assistant Solicitor for Procurement, before proceeding with the award.

(f) *Protests After Award.* Protests received after award of a contract are subject to the same procedures for processing as set forth in this § 14–2.407–8(c) of this title. Reports on protests after award shall include a statement of the status of performance under the contract and the date anticipated for contract completion.

(g) *Report of Corrective Action.* If a GAO decision contains a recommendation for corrective action and directs the agency's attention to section 236 of the Legislative Reorganization Act (31 U.S.C. 1176), the GAO will transmit a copy of the decision to the Congressional committees named in section 232 of the Act (31 U.S.C. 1172). The Department is required by section 236 of the Act to submit to the House and Senate Committees on Appropriations and Government Operations a written statement of the corrective action taken. The required statement shall be prepared and submitted by the head of the procuring activity concerned to the Director, Office of Acquisition and Property Management within fifty calendar days after the date of the GAO decision. After reviewing the statement with the Assistant Solicitor for Procurement, the Director, Office of Acquisition and Property Management will transmit the statement to the appropriate committees. Action on other GAO decisions recommending corrective action will be the responsibility of the Director, Office of Acquisition and Property Management.

[FR Doc. 81–468 Filed 1–6–81; 8:45 am]
BILLING CODE 4310–10–M

## GENERAL SERVICES ADMINISTRATION

**41 CFR Ch. 101**

**[FPMR Temp. Reg. A–17]**

### Federal Property Management Regulations, Temporary; Use of Contract Airline Service Between Selected City-Pairs

**AGENCY:** General Services Administration.

**ACTION:** Temporary regulation.

**SUMMARY:** GSA, on behalf of Federal agencies, including the Department of Defense, has entered into contracts of 6-months duration with certificated air carriers to provide transportation at reduced fares for official travel between selected cities (city-pairs). This regulation prescribes policies, procedures, and requirements that apply to Federal agencies when contract airline passenger transportation is provided.

**DATES:** Effective date: January 1, 1981; Expiration date: January 1, 1982.

**FOR FURTHER INFORMATION CONTACT:** John Millington, Ed Hochard or Sean Allan, Transportation Management Division, Transportation and Public Utilities Service (202–275–6144 or 275–1049).

**SUPPLEMENTARY INFORMATION:** In supplement 10, FPMR Temporary Regulation A–11, users should change all FPMR A–15 references to FPMR A–17. The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR 101, the following temporary regulation is added to the appendix at the end of subchapter A to read as follows:

December 31, 1980.

To: Heads of Federal Agencies.

Subject: Use of contract airline service between selected city-pairs.

1. *Purpose.* This regulation prescribes policies, procedures, and requirements applicable to Federal agencies when scheduled airline passenger transportation service is needed for official travel between selected cities (city-pairs).

2. *Effective date.* This regulation is effective on January 1, 1981.

3. *Expiration date.* This regulation expires on January 1, 1982, unless superseded or canceled.

4. *Background.*

a. The General Services Administration, Transportation and Public Utilities Service (TPUS), has increased the number of city-pairs and has expanded the scope of airline contracts with certificated air carriers to furnish air passenger transportation for official Government travel at reduced fares.

b. Except for the travel conditions indicated in paragraph 10b, the Government has agreed to place all of its official air travel with the contractor air carriers providing scheduled service between the city-pairs listed in the attachment A.

5. *Scope.*

A. This regulation applies to executive and other Federal agencies to the extent specified in the Federal Property and Administrative Services Act of 1949, as amended, and 5 U.S.C. 5701 et seq.

b. The Department of Defense (DOD) shall follow the procedures established in the Military Traffic Management

Regulation (AR 55-355/NAVSUP 4600.70/MCO P4600.14A/DLAR 4500.3).

c. Uniformed members of the Public Health Service; the National Oceanic and Atmospheric Administration; the U.S. Coast Guard; employees of the Judicial Branch of the Government; the U.S. Postal Service; Foreign Service Officers; cost reimbursable contractors working for the Government; and employees of any agency having independent statutory authority to prescribe travel allowances and who are not subject to 5 U.S.C 5701-5709 are exempt from the mandatory use of this contract. However, all exempt personnel are authorized and encouraged to obtain contract services when acceptable to the contract airline.

6. *Applicability.* The provisions of this regulation are mandatory for all official travel by air between the city-pairs listed in attachment A.

7. *Carrier requirements.* The contractor shall not be required to furnish services if, at the time of the request for services, the scheduled aircraft is fully booked, nor shall the contractor be required to furnish any additional aircraft to satisfy the transportation requirement. However, the contractor will provide the official Government traveler with the same services, including meals, as provided to its commerical passengers in scheduled jet coach service or better, subject to the rules and procedures published in the air carrier's tariffs on file with the Civil Aeronautics Board. The carrier will make reservations for Government travelers on the same basis as for regular coach service travelers and shall not discriminate in favor of the commerical traveler.

8. *Procedures for obtaining service.*

a. Contract air service shall be ordered by the issuance of Standard Form 1169, U.S. Government Transportation Request (GTR). If cash is used in the absence of a GTR under the provisions of FPMR 101-41.203-2, participating airline carriers may furnish contract fares at their option. If the contract carriers do not provide contract fares with the use of cash, the required service may be procured at the noncontract fare.

b. Agencies may obtain airline schedules and reservations for each specified city-pair through the use of the individual airline telephone number(s) listed in attachment A. When requesting reservations, the trip shall be identified as official Government business and the carrier's ticket agent shall be instructed to apply the appropriate contract fare. Agencies using teletype ticketing equipment should examine airline tickets to determine whether the correct contract fare has been applied. Improperly rated or fared tickets shall be canceled and new tickets shall be requested. Tickets picked up at airline ticket offices should be verified to ensure that the proper contract-air-class-of-service symbol is shown on the ticket.

c. When the contract carrier offers a fare to the general public between the city-pairs listed in attachment A which is lower than the contract fare, the ordering agency may elect to use such lower fare instead of the contract fare. These lower fares may be used provided they do not alter the position of the contractors with respect to their use in progressive order as specified in paragraph 8e.

d. Contract fares apply only between the cities named and are not applicable to or from intermediate points; however, the Government may use the contract fare in conjunction with other published fares, including other contract fares. Under this provision, carriers will provide through ticketing and service.

e. Agencies shall request reservations from the contract airline offering the lowest contract fare for the appropriate city-pair, as shown in attachment A. If that carrier cannot provide the required service, the carrier(s) offering the next lower fare in progressive order shall be used. For example, carriers A and B offer service at $65 and $70 respectively. If carrier A cannot provide transportation service at $65, carrier B will be requested to furnish service at $70.

f. The use of connecting flights is encouraged where contract carriers do not provide through service and this connection produces lower transportation costs than direct flights using noncontract carriers. However, agencies are cautioned that lower transportation costs may be offset by increased travel costs, such as per diem, subsistence, allowable overtime, or lost productive time due to layovers. For example, if direct service from San Francisco, California, to Washington, DC, is not available from a contract carrier, a noncontract carrier may be used to the closest connecting city offering service (i.e., Salt Lake City, Utah; Denver, Colorado; or Los Angeles, California); then, a contract carrier may be used to Washington, DC. In these cases, when making reservations with a noncontract carrier, the ticket agent should be advised of the portion(s) of the trip that will be taken at the reduced contract fare.

g. If service by contract carriers is provided at different airports but still between the same city-pair listed in attachment A, the lowest overall cost, including the contract fare, lost productive time, and ground transportation will determine which carrier will be used.

9. *Class of service identification.* The contract air class of service designated by each contract carrier as shown in attachment A shall be shown on all Standard Forms 1169, U.S. Government Transportation Request, and airline tickets.

10. *Airline service using noncontract carriers instead of contract carriers.*

a. Heads of agencies may delegate authority to authorize or approve the use of noncontract air carriers when justified under the conditions listed in paragraph b, below. This authority shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances of the travel assignment and to ensure complicance with this regulation.

b. Justification for the use of air carriers other than those shown in attachment A is limited to the following conditions, which shall be certified on individual travel orders or vouchers by the authorizing official:

(1) Airline seating capacity on any scheduled flight of the contract carrier is not available in sufficient time to accomplish the purpose of the travel, or the use of the carrier's flight would require additional overnight lodging;

(2) The scheduled flight of the contract carrier is not compatible with the agency policies and practices regarding travel during regularly scheduled workhours. (For further information, see the Federal Personnel Manual, Supplement 990-2);

(3) On the basis of a comparison of total costs for each individual trip, the use of a standard class jet coach (Y class) airline fare in existence on October 15, 1980, is less costly to the Government, considering such factors as actual transportation cost, subsistence, allowable overtime, or lost productive time; or

(4) Exigency or other requirements of the mission necessitate the use of another airline carrier or mode of transportation.

11. *Collective agreements.* This regulation shall not be interpreted to nullify any valid, negotiated agreement between management and a union covering any provision of employee travel in effect on the effective date of this regulation. Upon the expiration of agreements exempted, the provisions of this regulation shall apply.

12. *Comments.* Comments and recommendations concerning the use of this regulation and its provisions may be submitted to the General Services

Administration, Office of Transportation and Travel Management (TT), Washington, DC 20406.

13. *Cancellation.* FPMR Temporary Regulation A-15, dated June 30, 1980, is canceled December 31, 1980.

14. *Effect and other directives.* In supplement 10, FPMR Temporary Regulation A-11, all references to A-15 shall be changed to A-17.

Ray Kline,

*Acting Administrator of General Services.*

**Attachment A**

| | Lowest standard Y class jet coach fare (as of Oct. 15, 1980) | Contract fare and airline (See note:) |
|---|---|---|
| City-Pairs (between) Washington, DC; and: | | |
| Chicago, IL | $128 | $79—ML<br>100—NW |
| Dallas-Ft. Worth, TX | 206 | 125—TI<br>158—BN |
| Houston, TX | 208 | 113—BN<br>125—TI |
| Kansas City, MO | 179 | 131—ML |
| Memphis, TN | 151 | 140—BN |
| Miami, FL | 171 | 119—QH<br>125—PA |
| New Orleans, LA | 183 | 128—TI |
| New York, NY | 58 | 29—NS<br>40—NW<br>42—BN |
| Oklahoma City, OK | 228 | 171—TI<br>200—BN |
| Orlando, FL | 156 | 115—PA |
| Phoenix, AZ | 312 | 272—BN |
| Salt Lake City, UT | 297 | 229—BN |
| San Antonio, TX | 237 | 145—TI<br>168—BN |
| St. Louis, MO | 149 | 114—ML<br>120—OZ |
| Tucson, AZ | 310 | 279—BN |
| City-Pairs (between) Chicago, IL; and: | | |
| Cleveland, OH | 83 | 53—ML |
| Detroit, MI | 73 | 44—ML |
| Kansas City, MO | 113 | 68—ML<br>88—BN |
| Oklahoma City, OK | 160 | 137—BN |
| St. Louis, MO | 70 | 46—ML |
| Dallas/Ft. Worth, TX; and: | | |
| Albuquerque, NM | 139 | 52—TI |
| Atlanta, GA | 151 | 127—BN |
| El Paso, TX | 140 | 52—TI |
| Houston, TX | 71 | 23—QH<br>24—BN |
| Little Rock, AR | 86 | 59—TI |
| New Orleans, LA | 104 | 52—TI<br>53—BN |
| Oklahoma City, OK | 52 | 34—BN<br>35—TI |
| Denver, CO/Salt Lake City, UT | 96 | 40—BN<br>59—TI |
| Kansas City, MO/St. Louis, MO | 88 | 55—OZ |
| Las Vegas, NV/Reno, NV | 53 | 38—BN |
| Miami, FL/Ft. Myers, FL | 53 | 40—QH |
| New York, NY/Norfolk, VA | 78 | 48—PA |
| City-Pairs (between) San Antonio, TX; and: | | |
| Dallas-Ft. Worth, TX | 75 | 35—TI<br>36—BN |
| Detroit, MI | 215 | 194—BN |
| Los Angeles, CA | 213 | 141—BN |
| New York, NY | 264 | 236—BN |
| Philadelphia, PA | 254 | 227—BN |
| St. Louis, MO | 158 | 104—TI |
| San Francisco/Oakland, CA; and: | | |
| Los Angeles, CA | 53 | 39—WO |
| Seattle-Tacoma, WA | 131 | 73—AS |
| Seattle/Tacoma, WA; and: | | |
| Anchorage, AK | 184 | 108—AS |
| Los Angeles, CA | 175 | 99—NW |
| Portland, OR | 49 | 25—BN<br>26—NW |
| Spokane, WA | 88 | 49—NW |
| Tucson, AZ/Phoenix, AZ | 45 | 27—BN |

Note: Service shall be requested first from the carrier offering the lowest fare; then, the carrier offering the next lowest fare, etc.

Because of economic conditions, the Standard Industry Fare Level (SIFL), as provided by the Civil Aeronautics Board, may be increased or decreased during the period of this contract. The contract fare, which reflects the SIFL, will be adjusted to reflect the percentage change.

**Contract Airline Codes, Names, Reservation Telephone Numbers, and Class of Service Codes**

AS Alaska Airlines, Inc: Class of service code—YDG

*Toll Free*

Continental U.S.—(800) 426—0333
State of Alaska—(800) 426-7464
State of Washington—(800) 552-0670

*Commercial*

Anchorage, AK—(907) 243-3300
San Francisco/Oakland, CA—(415) 931-8888
Seattle-Tacoma, WA—(206) 433-3100

BN Braniff Airways, Inc.: Class of service code—YDG

*Toll Free*

Continental U.S., except State of Texas—(800) 527-2600
State of Texas, except Dallas/Ft. Worth, TX—(800) 492-2950

*Commercial*

Dallas, TX— (214) 357-5421
Ft. Worth, TX—(817) 335-5818

ML Midway Airlines, Inc.: Class of service code—YDG

*Toll Free*

Continental U.S., except Illinois—(800) 621-5700
State of Illinois, except Chicago, IL—(800) 572-5688

*Commercial*

Chicago, IL—(312) 471-4710

NS New York Air: Class of service code—G

*Toll Free*

Continental U.S., except New York State—(800) 221-9300
State of New York, except New York City—(800) 522-5555

*Commercial*

New York City—(212) 476-5666

NW Northwest Airlines, Inc.: Class of service code—Y2

*Toll Free*

Continental U.S., except Minneapolis, MN—(800) 328-7120

*Commercial*

Minneapolis, MN—(612) 726-1234

OZ Ozark Airlines, Inc.: Class of service code—Y37

*Commercial*

Kansas City, MO—(816) 471-7383
St. Louis, MO—(314) 739-1111
Washington, DC—(202) 347-4744

PA Pan American World Airways: Class of service code—YDG

*Commercial*

Miami, FL—(305) 874-5000
New York, NY—(212) 973-4000
Norfolk, VA—(804) 622-1301
Orlando, FL—(305) 422-0701
Washington, DC—(202) 833-1000

QH Air Florida, Inc.: Class of service code—YDG

*Toll Free Continental U.S., except Florida—(800) 327-2971*

State of Florida—(800) 432-4538

*Commercial*

Dallas/Ft. Worth, TX—(214) 988-0981
Houston, TX—(713) 621-3700
Miami, FL—(305) 592-8010
Washington, DC—(202) 783-3590

TI Texas International Airlines, Inc.: Class of service code—Y37

*Toll Free*

Continental U.S., except Texas—(800) 231-0666
State of Texas—(800) 392-6838

*Commercial*

Albuquerque, NM—(505) 842-5810
Denver, CO—(303) 892-1900
Dallas/Ft. Worth, TX—(214) 268-2300
El Paso, TX—(915) 533-7011
Houston, TX—(713) 821-2100
Little Rock, AR—(501) 376-3333
New Orleans, LA—(504) 581-2965
Oklahoma City, OK—(405) 236-5058
Salt Lake City, UT—(801) 364-4383
San Antonio, TX—(512) 225-5805
St. Louis, MO—(314) 241-7205
Washington, DC—(202) 347-4777

WO World Airways, Inc.: Class of service code—YDG

*Toll Free*

Continental U.S., except California—(800) 227-2297
State of California—(800) 772-2643

*Commercial*

Los Angeles, CA—(213) 646-9404
San Francisco/Oakland, CA—(314) 577-2500

[FR Doc. 81-383 Filed 1-02-81; 10:00 am]

BILLING CODE 6820-AW-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### 43 CFR Public Land Order 5800

[OR-19340]

### Oregon; Revocation of Public Land Order No. 702

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes a public land order which withdrew 60 acres of lands as a scenic and recreational area for use by the Bureau of Land Management. The lands remain segregated from operation of the public land laws generally, including the mining laws, by another existing recreational withdrawal.

**EFFECTIVE DATE:** January 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

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

1. Public Land Order No. 702 of March 5, 1951, which withdrew the following described lands for use by the Bureau of Land Management as a scenic and recreational area is hereby revoked:

**Willamette Meridian**

*Revested Oregon and California Railroad Grant Land*

T. 12 S., R. 3 E.,
Sec. 3, N½NE¼SE¼ and NW¼SE¼.
The area described contains 60 acres in Linn County.

2. The lands remain segregated from operation of the public land laws generally, including the United States mining laws, by Public Land Order No. 3869 of November 14, 1965. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

**Guy R. Martin,**
*Assistant Secretary of the Interior.*
December 29, 1980.

[FR Doc. 81-471 Filed 1-6-81; 8:45 am]
BILLING CODE 4310-84-M

### 43 CFR Public Land Order 5801

[A-8985]

### Arizona; Withdrawal of Forest Lands for Research Area

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order withdraws approximately 460 acres of land in the Coronado National Forest from operation of the mining laws for a research natural area for a period of 20 years.

**EFFECTIVE DATE:** January 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mario L. Lopez, Arizona State Office, 602–261–4774.

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

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws (30 U.S.C., Ch. 2), and are reserved for a research natural area:

**Gila and Salt River Meridian**

*Cordnado National Forest*

Pole Bridge Canyon Research Natural Area

Beginning at a point which is located S. 19°55′ E., and 2,075.00 feet from the corner common to secs. 13 and 24, T. 18 S., R. 29 E., and secs. 13 and 24, T. 18 S., R. 29½ E., thence S. 34°38′ E., 1,446.25 feet; thence S. 26°30′ W., 2,317.60 feet; thence S. 8°0′ E., 1,338.27 feet; thence S. 34°50′ E., 1,246.83 feet; thence S. 37°15′ W., 1,232.10 feet; thence S. 80°23′ W., 642.33 feet; thence N. 40°14′ W., 1,251.48 feet; thence N. 83°45′ W., 842.30 feet; thence S. 88°33′ W., 643.18 feet; thence N. 22°5′ W., 1,407.86 feet; thence N. 4°0′ W., 858.05 feet; thence N. 21°54′ W., 553.11 feet; thence N. 19°45′ E., 2,000.81 feet; thence N. 82°5′ E., 1,112.70 feet; thence N. 53°24′ E., 1,673.60 feet; thence S. 86°42′ E., 656.26 feet; to the point of beginning.

A portion of the tract is surveyed in T. 18 S., R. 29 E., and is situated in the SE¼NE¼, E½ SW¼, SE¼ sec. 24 and the NE¼, NE¼NW¼, NE¼SE¼ sec. 25. A portion of the tract is unsurveyed in T. 18 S., R. 29½ E., and when surveyed will probably be located in the W½ sec. 24 and W½ sec. 25

The area as described contains approximately 460.94 acres in Cochise County, Arizona.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

**Guy R. Martin,**
*Assistant Secretary of the Interior.*
December 29, 1980.

[FR Doc. 81-470 Filed 1-6-81; 8:45 am]
BILLING CODE 4310-84-M

### 43 CFR Public Land Order 5803

[A-7486]

### Arizona; Powersite Restoration No. 620; Partial Revocation of Powersite Reserve No. 182; Powersite Restoration No. 723; Partial Revocation of Water Power Designation No. 8 (AR-5)

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order partially revokes Powersite Reserve No. 182 and Water Power Designation No. 8 (AR-5) embracing approximately 218,000 acres situated within the White Mountain Apache and the San Carlos Indian Reservations and the Apache National Forest. It has been determined that these lands will not be developed for power purposes. The national forest lands, not otherwise withdrawn, will be opened to such forms of disposition as may by law be made of such lands. The lands situated within the Indian Reservations remain withdrawn for those purposes.

**EFFECTIVE DATE:** January 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mario L. Lopez, Arizona State Office 602–261–4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204(a) of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-155–Arizona, it is ordered as follows:

1. The Departmental Order of April 15, 1911, creating Powersite Reserve No. 182, and Departmental Order of February 9, 1917, as amended, creating Water Power Designation No. 8, (AR-5), are hereby revoked as to the following described lands:

**Gila and Salt River Meridian; Powersite Reserve No. 182**

Every smallest legal subdivision included in the Fort Apache Indian Reservation, any portion of which will, when surveyed, lie within 1 mile of the Salt River, Arizona, extending from the boundary between the Apache National Forest and the Fort Apache Indian Reservation at a point located approximately in unsurveyed T. 3 N., R. 26 E., to the boundary between the Fort Apache Indian Reservation and the Tonto National Forest at a point located approximately within unsurveyed T. 4 N., R. 16 E., and:

Every smallest legal subdivision included in the San Carlos Indian Reservation, any portion of which will,

when surveyed, lie within 1 mile of the Salt River, Arizona, extending from the boundary between the Apache National Forest and the San Carlos Indian Reservation at a point located approximately in unsurveyed T. 3 N., R. 26 E., to the boundary between the San Carlos Indian Reservation and the Crook National Forest, presently known as the Tonto National Forest, at a point located approximately in unsurveyed T. 5 N., R. 17 E., so far as they effect the following unsurveyed townships:

T. 3 N., R. 21 E.
T. 2 N., R. 22 E.
T. 3 N., R. 22 E.
T. 4 N., R. 22 E.
T. 2 N., R. 23 E.
T. 3 N., R. 23 E.
T. 1 N., R. 24 E.
T. 2 N., R. 24 E.
T. 3 N., R. 24 E.
T. 1 N., R. 25 E.
T. 2 N., R. 25 E.
T. 3 N., R. 25 E.
T. 2 N., R. 26 E.
T. 3 N., R. 26 E.
T. 3 N., R. 27 E.
T. 4 N., R. 27 E.
T. 4 N., R. 27½ E.

*Waterpower Designation No. 8 (AR-5)*

T. 3 N., R. 22 E., unsurveyed.
T. 4 N., R. 22 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 4½ N., R. 22 E.,
Sec. 13, Lot 4;
Sec. 14, Lots 1, 2, 3, 4, 5, 6, 7, 8, and SW¼SE¼;
Sec. 15, S½SE¼;
Sec. 19, E½SE¼ and SW¼SE¼;
Sec. 20, SW¼ and S½SE¼;
Sec. 21, S½NE¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 22, N½ and N½SW¼;
Sec. 23, Lots 2, 3, and 4;
Sec. 28, N½N½;
Sec. 29, N½;
Sec. 30, Lots 2, 3, NE¼, E½NW¼, NE¼SW¼ and NW¼SE¼.
T. 5 N., R. 22 E.,
Sec. 13, Lots 1, 2, 3, 4, 5, 6, 7, 8, S½NE¼, NW¼SW¼, and S½SE¼;
Sec. 14, Lots 1 and 2;
Sec. 23, Lots 1, 8, 9, 10, SE¼NE¼ and SW¼SE¼;
Sec. 24, Lots 3, 4, 5, 6, NW¼NE¼, NW¼ and S½SW¼;
Sec. 25, NW¼NW¼ and S½;
Sec. 26, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, S½NE¼, NW¼NW¼, SE¼SW¼ and SE¼;
Sec. 27, E½SE¼;
Sec. 33, Lot 8, SE¼NE¼ and E½SE¼;
Sec. 34, Lots 1, 2, 3, 4, 5, 6, NW¼NE¼ and W½;
Sec. 35, Lots 1, 2, N½NE¼, NE¼NW¼, S½NW¼ and NW¼SW¼;
Sec. 36, N½N½.
T. 2 N., R. 23 E., unsurveyed.
T. 3 N., R. 23 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 5 N., R. 23 E.,
Sec. 6, Lots 3, 4, 5, 6, 7, SE¼NW¼ and E½SW¼;
Sec. 7, Lots 1, 2, 3, 4, E½W½;
Sec. 13, S½NE¼, SE¼NW¼ and S½;
Sec. 14, SE¼SW¼ and SE¼;
Sec. 18, Lots 3, 4, 5, 6, 12, NE¼NW¼ and NE¼SW¼;
Sec. 21, SE¼SW¼ and SE¼;
Sec. 22, NE¼, S½NW¼, SW¼, N½SE¼, and SW¼SE¼;
Sec. 23, N½N½, SW¼NE¼, S½NW¼ and NW¼SW¼;
Sec. 27, NW¼NW¼;
Sec. 28, N½NE¼, SW¼NE¼, NW¼ and N½SW¼;
Sec. 29, E½NE¼, SW¼NE¼ and S½;
Sec. 30, Lots 7, 8, 9, 10, 11, 12, E½SW¼ and E½SE¼;
Sec. 31, Lots 1, 2, 3, and NE¼NE¼;
Sec. 32, N½NW¼.
T. 6 N., R. 23 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within a quarter of a mile of the North Fork of White River.

T. 7 N., R. 23 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within a quarter of a mile of the North Fork of White River and Diamond Creek.

T. 8 N., R. 23 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within a quarter of a mile of the North Fork of White River.

T. 2 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 3 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River and Bonito Creek.

T. 4 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Bonito Creek.

T. 5 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a quarter of a mile of East Fork of White River.

T. 6 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within a quarter of a mile of North and East Forks of White River.

T. 7 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within a quarter of a mile of Diamond Creek.

T. 8 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Diamond Creek.

T. 2 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 3 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Bonito Creek.

T. 4 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Bonito Creek and any additional part of the N½ of the township of the east and south side of Bonito Creek.

T. 5 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Bonito Creek.

T. 6 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of East Fork of White River.

T. 7 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Diamond Creek.

T. 8 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or

in part within half a mile of North Fork of White River.

T. 2 N., R. 26 E., unsurveyed.
T. 3 N., R. 26 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 4 N., R. 26 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile and north and west of Bonito Creek and any part of the N½ of the township on the east and south side of Bonito Creek.

T. 5 N., R. 26 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Bonito Creek.

T. 3 N., R. 27 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 4 N., R. 27 E., N½ of township, unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 5 N., R. 27 E., (partially surveyed)
Sec. 1, Lots 3, 4, SW¼NE¼, S½NW¼, and S½;
Sec. 2, Lots 1, 2, and SE¼NE¼;
Sec. 12, NE¼ and NE¼NW¼.
T. 6 N., R. 27 E. (partially surveyed)
Sec. 25, all;
Sec. 26, all;
Sec. 27, E½ and E½SW¼;
Sec. 34, NE¼NE¼;
Sec. 35, E½, E½W½, and W½NW¼;
Sec. 36, N½N½ and SW¼SW¼.
T. 4 N., R. 27½ E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within one mile of Black River or Reservation Creek, north of Black River.

T. 3½ N., R. 28 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within one mile west or north of Black River.

T. 4 N., R. 28 E.,
Sec. 1, Lots 1, 2, S½NE¼, SE¼NW¼, E½SW¼, SW¼SW¼, and SE¼;
Sec. 2, SW¼SW¼;
Sec. 3, SW¼NW¼ and S½;
Sec. 4, Lots 1, 2, 3, S½NE¼, SE¼NW¼, N½SE¼ and SE¼SE¼;
Sec. 10, NE¼, N½NW¼, SE¼NW¼, and N½SE¼;
Sec. 11, all;
Sec. 12, N½NE¼, SW¼NE¼, NW¼, N½SW¼, and SW¼SW¼;
Sec. 13, SW¼SW¼;
Sec. 14, all;
Sec. 19, Lot 4, and SE¼SW¼;
Sec. 21, E½NE¼, SW¼NE¼, SE¼SW¼, and SE¼;
Sec. 22, NE¼, NW¼NW¼, S½NW¼, and S½;
Sec. 23, all;
Sec. 24, NW¼, N½SW¼, and SW¼SW¼;
Sec. 26, NW¼NW¼;
Sec. 27, N½N½, SW¼NE¼, and S½NW¼;
Sec. 28, N½ and N½SW¼;
Sec. 29, N½, N½S½, and S½SE¼;
Sec. 30, Lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼.
T. 5 N., R. 28 E.,
Sec. 6, Lots 17 and 18;
Sec. 7, Lots 5 to 12, inclusive, NW¼NE¼, S½NE¼, E½W½, and SE¼;
Sec. 17, NW¼NW¼, S½NW¼, and SW¼;
Sec. 18, E½ and E½W½;
Sec. 19, E½ and E½W½;
Sec. 20, W½;
Sec. 29, W½W½, E½SW¼ and SW¼SE¼;
Sec. 30, E½ and E½NW¼;
Sec. 31, NE¼NE¼;
Sec. 32, Lots 3, 4, W½NE¼, SE¼NE¼, NW¼, NE¼SW¼, and N½SE¼;
Sec. 33, Lot 1 and NW¼SW¼;
Sec. 35, Lot 9 and NE¼SE¼;
Sec. 36, Lot 4, NW¼NE¼, E½NW¼, SW¼NW¼, and N½SW¼.

The areas described aggregate approximately 218, 278 acres in Apache, Graham, Greenlee, Gila and Navajo Counties.

2. The majority of the above-described lands were withdrawn by the Executive Order of November 9, 1871, and Executive Order Nos. 1475, 1477 and 1479 of February 17, 1912, for the White Mountain Apache Indian Reservation and the San Carlos Indian Reservation. The balance of the lands in T. 4 N., R. 27½ E., Tps. 5 and 6 N., R. 27 E., Tps. 3½, 4, and 5 N., R. 28 E., are situated in the Apache Nastional Forest established by Executive Order No. 876 of July 1, 1908. Some of the lands in Tps. 4 and 5 N., R. 28 E., remain withdrawn by Public Land Order No. 3263 of October 29, 1963, as national forest administrative and campsites.

3. The State of Arizona has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818 as to the national forest lands.

4. At 10:00 a.m. on February 3, 1981, the national forest lands, shall be open to such forms of disposition as may by law be made of national forest lands, subject to valid rights, the provisions of existing withdrawals, and the requirements of applicable laws.

The national forest lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws, subject to provisions of the Act of August 11, 1955 (69 Stat. 681; 30 U.S.C. 621).

**Guy R. Martin,**
*Assistant Secretary of the Interior.*

[FR Doc. 81-409 Filed 1-6-81; 8:45 am]
BILLING CODE 4310-84-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 65

**[Docket No. FEMA 5968]**

### Changes in Special Flood Hazard Areas Under the National Flood Insurance Program; Georgia, et al.

**AGENCY:** Federal Insurance Administration.

**ACTION:** Interim rule.

**SUMMARY:** This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

**DATES:** These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

**ADDRESS:** The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

**SUPPLEMENTARY INFORMATION:** The numerous changes made in the base (100-year) flood elevations of the Flood Insurance Rate Map(s) make it

administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the addres of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 65.4 (presently appearing at its former Section 24 CFR 1915).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insuarance Program (NFIP).

These elevations, together with the flood plain management measures required by 60.3 (presently appearing at its former Section 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former Section 24 CFR Part 1915.4):

| State | County | Location | Date and name of newspaper where notice was published | Chief executive officer of community | Effective date of modified flood insurance rate map | New community No. |
|---|---|---|---|---|---|---|
| Georgia | Thomas | City of Thomasville | *Time Enterprise*, Oct. 24 and Oct. 31, 1980. | Honorable Jack Bracey, Mayor, City of Thomasville, 144 E. Jackson Street, Thomasville, Georgia 31792. | Oct. 31, 1980 | 130170, 0005C. |
| Maryland | Carroll | City of Westminster | *The Carroll County Times*, Oct. 3 and Oct. 10, 1980. | Honorable Leroy Conaway, City of Westminster, City Hall, Westminster, Maryland 21157. | Oct. 10, 1980 | 240018, 0002C, 0003C. |
| Massachusetts | Norfolk | Town of Randolph | *The Randolph Herald*, Sept. 25 and Oct. 2, 1980. | Mr. Thomas Sullivan, Chairman, Board of Selectmen's Office, Town Hall, Town of Randolph, Randolph, Massachusetts 02368. | Oct. 3, 1980 | 250251, 0002B, 0003B, 0005B. |
| Minnesota | Nicollet | City of North Mankato | *The Free Press*, June 24 and July 1, 1980. | Mr. Bob Ringhofer, City Administrator, City of North Mankato, 1001 Belgrade Avenue, North Mankato, Minnesota 56001. | Oct. 24, 1980 | 275245, 0001F. |
| Nebraska | Douglas | City of Omaha | *The Omaha World-Herald, Feb. 19 and Feb. 20, 1980.* | Honorable Albert Veys, Mayor, City of Omaha, Omaha/Douglas Civic Center, 1819 Farnam Street, Omaha, Nebraska 68183. | Oct. 7, 1980 | 315274, 0005C, 0010C, 0015C, 0020C, 0025C, 0030C, 0035C, 0040C, 0045C, 0050C. |
| New York | Monroe | Town of Greece | *The Greece Post*, Oct. 16 and Oct. 23, 1980. | Mr. Donald J. Riley, Town Supervisor, Town of Greece, 2505 West Ridge Road, Rochester, New York 14626. | Oct. 24, 1980 | 360417, 0003D. |
| Texas | McLennan | City of Mart | *Mart Herald*, Oct. 9 and Oct. 16, 1980. | Honorable E. Babe Aycock, Mayor, City of Mart, P.O. Box 360, Mart, Texas 76664. | Oct. 14, 1980 | 480929, 0005B. |
| Wisconsin | Trempealeau | Village of Strum | *The Tri-County News*, Oct. 9 and Oct. 16, 1980. | Mr. Marshall Robbe, Village President, 202 Fifth Avenue, Strum, Wisconsin 54770. | Oct. 17, 1980 | 555583, 0001B. |
| Florida | Volusia | City of New Smyrna Beach | *New Smyrna News and Observer*, Oct. 22 and Oct. 29, 1980. | Honorable George E. Musson, Mayor, City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida 32067. | Oct. 17, 1980 | 125132B, 66B. |
| New York | Winchester | City of Rye | *Rye Chronicle*, Oct. 30 and Nov. 6, 1980. | Honorable John Carey, Mayor, City of Rye, City Hall, Rye, New York 10580. | Oct. 23, 1980 | 360913, 66B. |
| Texas | Montgomery | City of Conroe | *Montgomery County Daily Courier*, Nov. 5 and Nov. 6, 1980. | Honorable Carl Borton, Jr., Mayor, City of Conroe, 501 West Davies, P.O. Box 386, Conroe, Texas 77301. | Oct. 17, 1980 | 480484B, 66B. |
| Texas | Tarrant | City of Bedford | *Mid-Cities Daily News*, May 30 and June 1, 1980. | Honorable L. Don Dodson, Mayor, City of Bedford, 2000 Forest Ridge Drive, P.O. Box 157, Bedford, Texas 76021. | Oct. 17, 1980 | 480585A, 66B. |
| Texas | Tarrant | City of Benbrook | *Ford Worth Star-Telegram*, Apr. 29 and Apr. 30, 1980. | Honorable Jerry Dunn, Mayor, City of Benbrook, 911 Winscott Road, Benbrook, Texas 76126. | Oct. 17, 1980 | 480586B, 66B. |

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 40014128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: December 15, 1980.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[FR Doc. 81-333 Filed 1-6-81; 8:45 am]

BILLING CODE 6718-03-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1033

[Service Order 1491]

### Louisiana & Arkansas Railway Co. Authorized To Operate Over Tracks of the Atchison, Topeka & Santa Fe Railway Co.

Service date: December 30, 1980.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Decision—Service Order No. 1491 extension.

**SUMMARY:** Service Order No. 1491 authorized the Louisiana & Arkansas Railway Company (L&A) to operate over tracks of The Atchision, Topeka and Santa Fe Railway Company (ATSF) in Dallas, Texas.

Under 49 U.S.C. 11123(a) the Commission may issue a service order for up to 30 days when it finds that a "failure in traffic movement exists which creates an *emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States,*" (emphasis added). Extension of the order requires that the full Commission, after a hearing, certify the continued existence of the emergency.

The Commission finds that L&A's application has filed to support the criteria in 49 U.S.C 11123(a), and the application is denied.

**EFFECTIVE DATE:** This decision is effective on December 30, 1980.

**FOR FURTHER INFORMATION CONTACT:** M. F. Clemens, Jr., (202) 275–7840.

Decided: December 19, 1980.

On December 1, 1980, the Railroad Service Board issued Service Order No. 1491, under 49 U.S.C. 11123(a), authorizing the Louisiana and Arkansas Railway Company (L&A) to operate over tracks of The Atchison, Topeka, and Santa Fe Railway Company (ATSF) in Dallas, Texas, in order to continue the use of the Chicago, Rock Island and Pacific Railroad Company's Cadiz Yard. In effect, this issuance restated the provisions of an earlier order (Service Order No. 1267) which was required to expire on its own terms on November 30, 1980, pursuant to the Commission's Policy Statement, Ex Parte No. 396 (served October 28, 1980). Service Order No. 1491 was issued under Section 226 of the Staggers Rail Act of 1980, Pub. L. 96–448 which amends 49 U.S.C. 11123(a), by prescribing specific standards of magnitude for the issuance of emergency car service orders. Essentially, the Commission may issue an order only when it finds that a failure in traffic movement exists which creates an emergency situation of such magnitude as to have a substantial adverse effect on the rail service in the United States or substantial region of the United States. These orders are limited to an initial 30-day period and can only be extended by the full Commission after a hearing.

Inasmuch as there was insufficient time, based on the October 28, 1980, issuance of its policy statement (Ex Parte No. 396), to notify the public of the interruption in service associated with the November 30, 1980, expiration of Service Order No. 1267; Service Order No. 1491 was issued based solely on the representations of the L&A.

The service order contained a notice that statements providing information and argument relating to the necessity and appropriateness of extending the order beyond its initial 30-day period be filed (original and five copies) in affidavit form with the Railroad Service Board under modified hearing procedures.

In its filing L&A has failed to address impact on the region, as required by the statute, in any manner other than by reference. Further, the L&A did not, during the effective period of Service Order No. 1267, make an appropriate filing for permanent authority nor has it used the initial term of this order to make such a filing.

The L&A's application for extension to Service Order No. 1491, therefore, is denied.

*It is ordered:*

1. The application of L&A for extension of Service Order No. 1491 is denied.

2. This decision is effective on its date of service.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general pubic by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81–426 Filed 1–6–81; 8:45 am]

BILLING CODE 7035–01–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 611

### Foreign Fishing

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

**ACTION:** Final rule.

**SUMMARY:** Foreign Fishing quotas and joint venture processing amounts arising under preliminary fishery management plans (PMP) for red hake, silver hake, river herring, other Atlantic finfish, Pacific billfish, oceanic sharks, wahoo, mahi mahi, and snails are finalized for 1981 and beyond, until amended.

**EFFECTIVE DATE:** January 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** For river herring, red hake, silver hake, and other finfish (Atlantic): Mr. Allen E. Peterson, Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts, Telephone: (617) 281–3600.

For Pacific snails: Mr. Robert McVey, Regional Director, National Marine Fisheries Service, Juneau, Alaska, Telephone: (907) 586–7221.

For Pacific billfish, oceanic sharks, wahoo, and mahi mahi: Mr. Alan W. Ford, Regional Director, National Marine Fisheries Service, Terminal Island, California, Telephone: (213) 548–2575.

**SUPPLEMENTARY INFORMATION:** This notice amends regulations implementing several PMPs. These amendments establish quotas for joint ventures (over-the-side-sales) and specify the total allowable level of foreign fishing for 1981 and beyond.

Proposed regulations were published on the following dates:

(1) Snail fishery of the eastern Bering Sea on December 11, 1980 (45 FR 81633);

(2) Foreign fishing for billfish, oceanic sharks, wahoo and mahi mahi on December 11, 1980 (45 FR 81633);

(3) Hake fisheries of the northwestern Atlantic on December 15, 1980 (45 FR 82297);

(4) Foreign trawl fisheries of the northwest Atlantic on December 8, 1980 (45 FR 80845).

The comment periods on these proposed rules expired on December 29, 1980. No substantive comments were received. Since the actions for all of these PMPs are identical (e.g.: insertion of appropriate language and amending the Appendix I of 50 CFR 611.20), the PMPs are amended by a single notice.

The preamble to the proposed regulations explains how the quotas were derived. The Assistant Administrator has determined that these amendments to the preliminary fishery management plans are necessary and appropriate to the conservation and management of Pacific billfish, oceanic sharks, wahoo, mahi mahi, snails, red and silver hake, river herring, and "other Atlantic finfish". The amendments are consistent with the provisions of the Fishery Conservation and Management Act of 1976 and other applicable laws. The Assistant Administrator has also determined that these regulations do not require the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969, and that the regulations are not significant ones requiring the preparation of a regulatory analysis under Executive Order 12044.

Signed in Washington, D.C., this 31st day of December, 1980.

**William H. Stevenson,**

*Deputy Assistant Administrator, National Marine Fisheries Service.*

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

50 CFR Part 611 as amended as follows:

A. Paragraph 611.81(b)(4) is amended by revising the title of paragraph (b)(4) and adding (b)(4)(iii) as follows:

**§ 611.81 Pacific billfish, oceanic sharks, wahoo, and mahi mahi fishery.**

* * * * *

(b) * * *

(4) *Total allowable level of foreign fishing (TALFF), joint venture processing (JVP), national allocations, and reserves.* * * *

(iii) Joint venture processing. The amounts of JVP are stated in Appendix I of § 611.20.

B. Revise paragraph 611.94(b)(2) to read as follows:

**§ 611.94 Snail fishery.**

* * * * *

(b) * * *

(2) TALFF, DAH, DAP, JVP, Reserve. The annual total allowable level of foreign fishing (TALFF), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and reserve for snails are listed in Appendix 1 to Section 611.20. These specifications are valid for each calendar year, unless amended.

* * * * *

C. Add new section 611.53 as follows:

**§ 611.53 Hake fishery.**

(a) *Definitions.* For purposes of this section, joint venture processing (JVP) means U.S. harvested hake transferred at sea to foreign processing vessels.

(b) *New estimates of DAP.* Upon receipt of an application for a permit for a foreign processing vessel to receive U.S. harvested hake, the Regional Director shall make new estimates of DAP based on the most recent information available. If the initial DAH plus the reserve (if any) is greater than the new estimate of DAP, the excess is available for joint venture processing. If the new estimate of DAP is greater than the initial DAH plus the reserve (if any), no excess is available for joint venture processing.

(c) *Respecification of JVP.* The Regional Director shall publish in the **Federal Register** the new estimate of DAP and the respecification of the amount available for joint venture processing.

D. Revise section 611.50(b)(2) to read as follows:

**§ 611.50 Northwest Atlantic Ocean fishery.**

* * * * *

(b) * * *

(2) *Fishing permitted.* Vessels subject to this section which fish with trawl gear may fish only during the seasons and with the methods specified in Table I of this section. Vessels subject to this section which fish with any other gear need not comply with the limitations specified in Table I.

* * * * *

E. 50 CFR Part 611.20, Appendix I, is amended to revise sections 1, 3.B, and 4.D as follows:

**§ 611.20 Total allowable level of foreign fishing.**

* * * * *

Appendix 1. Optimum yield (OY), domestic allowable harvest (DAH), domestic allowable processing (DAP), joint venture processing (JVP), domestic non-processed fish (DNP), reserve, and total allowable level of foreign fishing (TALFF), all in metric tons.

| | Species and species code | Areas | OY | DAH | DAP | JVP=(DAH-DAP) | DNP | Reserve | TALFF |
|---|---|---|---|---|---|---|---|---|---|
| 1. Northwest Atlantic Ocean fisheries: | | | | | | | | | |
| A. Hake fishery | Hake, silver—104 | 1 to 4 [11] | 30,000 | 20,600 | 20,600 | 0 | — | 0 | 9,400 |
| | | 5 [11] | 25,000 | 9,000 | 9,000 | 0 | — | 6,000 | 10,000 |
| | Hake, red—105 | 1 to 4 [11] | 16,000 | 13,000 | 13,000 | 0 | — | 0 | 3,000 |
| | | 5 [11] | 6,000 | 500 | 500 | 0 | — | 3,000 | 2,500 |
| B. Mackerel fishery | Mackerel, Atlantic—204 | | 30,000 | 20,000 | — | [12] | [12] | 0 | 10,000 |
| C. Trawl fishery | Herring, river—399 | | 8,000 | 7,900 | 7,900 | 0 | — | 0 | 100 |
| | Other finfish—499 | | 247,000 | 200,200 | 180,000 | 20,200 | — | 0 | 46,800 |
| D. Squid fishery | Squid, long-finned—502 | | 44,000 | 7,000 | — | 0 | — | 0 | 37,000 |
| | Squid, short-finned—504 | | 30,000 | 5,000 | — | 0 | — | 0 | 25,000 |
| E. Butterfish fishery | Butterfish—212 | | 11,000 | 7,000 | — | 0 | — | 0 | 4,000 |
| * | * | * | * | * | * | * | * | * | * |
| 3. Western Pacific Ocean fisheries: | | | | | | | | | |
| * | * | * | * | * | * | * | * | * | * |
| B. Pacific Billfish and Sharks Fishery | Swordfish—264 | West Coast | 318.4 | 350.2 | 0 | 0 | — | 0 | 0 |
| | | Hawaii and Midway | 93.6 | 5.9 | 0 | 0 | — | 8.8 | 78.9 |
| | | Guam and North Marianas | 4.1 | 0.2 | 0 | 0 | — | 0.4 | 3.5 |
| | | American Samoa | 2.4 | 0 | 0 | 0 | — | 0 | 2.4 |
| | | U.S. possessions | 28.1 | 0 | 0 | 0 | — | 0 | 28.1 |
| | Blue Marlin—260 | West Coast | — | — | — | — | — | — | — |
| | | Hawaii and Midway | 612.0 | 603.4 | 0 | 0 | — | 8.6 | 78.9 |
| | | Guam and North Marianas | 26.9 | 3.0 | 0 | 0 | — | 23.9 | 0 |
| | | American Samoa | 37.2 | 2.3 | 0 | 0 | — | 0 | 34.9 |
| | | U.S. possessions | 76.3 | 0 | 0 | 0 | — | 0 | 76.3 |

| | Species and species code | Areas | OY | DAH | DAP | JVP = (DAH-DAP) | DNP | Reserve | TALFF |
|---|---|---|---|---|---|---|---|---|---|
| | Black Marlin—253 | West Coast | — | — | — | — | — | — | — |
| | | Hawaii and Midway | 97.7 | 104.7 | 0 | 0 | — | 0 | 0 |
| | | Guam and North Marianas | 0.6 | 0 | 0 | 0 | — | 0.1 | 0.5 |
| | | American Samoa | 5.3 | 0 | 0 | 0 | — | 0 | 5.3 |
| | | U.S. possessions | 6.2 | 0 | 0 | 0 | — | 0 | 6.2 |
| | Striped Marlin—261 | West Coast | 43.2 | 47.5 | 0 | 0 | — | 0 | 0 |
| | | Hawaii and Midway | 223.2 | 67.9 | 0 | 0 | — | 15.5 | 139.8 |
| | | Guam and North Marianas | 5.0 | 0.3 | 0 | 0 | — | 0.5 | 4.2 |
| | | American Samoa | 7.8 | 0 | 0 | 0 | — | 0 | 7.8 |
| | | U.S. possessions | 46.6 | 0 | 0 | 0 | — | 0 | 46.6 |
| | Sailfish; spearfish—252, 262. | West Coast | — | — | — | — | — | — | — |
| | | Hawaii and Midway | 42.7 | 23.4 | 0 | 0 | — | 0.9 | 17.4 |
| | | Guam and North Marianas | 4.8 | 0.2 | 0 | 0 | — | 0.5 | 4.1 |
| | | American Samoa | 3.5 | 1.3 | 0 | 0 | — | 0 | 2.2 |
| | | U.S. possessions | 14.3 | 0 | 0 | 0 | — | 0 | 14.3 |
| | Sharks—263, 265, 266, 267, 469. | West Coast | 27.6 | 30.4 | 0 | 0 | — | 0 | 0 |
| | | Hawaii and Midway | 1,111.6 | 0 | 0 | 0 | — | 111.1 | 1,000.5 |
| | | Guam and North Marianas | 31.9 | 0 | 0 | 0 | — | 0 | 31.9 |
| | | American Samoa | 101.6 | 0 | 0 | 0 | — | 0 | 101.6 |
| | | U.S. possessions | 651.4 | 0 | 0 | 0 | — | 0 | 651.4 |
| | Wahoo—255 | West Coast | — | — | — | — | — | — | — |
| | | Hawaii and Midway | 288.9 | 317.8 | 0 | 0 | — | 0 | 0 |
| | | Guam and North Marianas | 25.1 | 27.6 | 0 | 0 | — | 0 | 0 |
| | | American Samoa | 4.8 | 2.8 | 0 | 0 | — | 0 | 2.0 |
| | | U.S. possessions | 0 | 0 | 0 | 0 | — | 0 | 0 |
| | Mahi mahi—237, 238 | West Coast | — | — | — | — | — | — | — |
| | | Hawaii and Midway | 105.0 | 115.5 | 0 | 0 | — | 0 | 0 |
| | | Guam and North Marianas | 18.9 | 20.8 | 0 | 0 | — | 0 | 0 |
| | | American Samoa | 6.4 | 4.4 | 0 | 0 | — | 0 | 2.0 |
| | | U.S. possessions | 0 | 0 | 0 | 0 | — | 0 | 0 |
| 4. Alaska fisheries: | | | | | | | | | |
| * * * | | * * * * | | | * | | | * | |
| D. Snail fishery | Snails (meats)—673 | | 3,000 | 0 | 0 | 0 | — | 0 | 3,000 |
| * * * | | * * * * | | | * | | | * | |

Footnotes.
[1] See § 611.52(b).

* * * * * * *

11. OY, DAH, DAP, JVP, DNP, and Reserve are for Southern New England/Mid-Atlantic management area, which includes foreign fishing areas 1–4, and for Georges Bank area, which includes foreign fishing area 5. See § 611.9, Appendix II, Figure 1 for a description of the foreign fishing areas.

[FR Doc. 80-40850 Filed 12-31-80; 8:45 am]
BILLING CODE 3510-22-M

## 50 CFR Part 652

## Atlantic Surf Clam and Ocean Quahog Fisheries

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

**ACTION:** Notice of area closure to surf clam and ocean quahog fishing.

**SUMMARY:** Notice is given of the closure of an area of the fishery conservation zone offshore of Atlantic City, New Jersey, to fishing for surf clams and ocean quahogs because of the predominance of small (length less than 4½ inches) surf clams. The area is approximately 120 square miles, and lies between three and nine and a half nautical miles offshore of Atlantic City, New Jersey, between Great Egg Harbor Inlet and Little Egg Inlet.

This action is based upon reports of commercial fishermen and scientific researchers which indicate that 60 percent or more of the surf clams in this area are under 4½ inches, and less than 15 percent are over 5½ inches. The area thus meets the criteria governing closure.

**EFFECTIVE DATE:** December 21, 1980.

**FOR FURTHER INFORMATION CONTACT:** Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930, (617) 281–3600.

**SUPPLEMENTARY INFORMATION:** Regulations implementing the fishery management plan for the Atlantic surf clam and ocean quahog fisheries contain provisions for the closure of areas which contain beds of small surf clams. Section 652.23(b) of 50 CFR (45 FR 793) allows the Regional Director to close an area to fishing if he determines (based on logbook entries, processors' reports, survey cruises, or other information) that the area contains surf clams of which (1) 60 percent or more are smaller than 4½ inches in size and (2) not more than 15 percent are larger than 5½ inches in size.

A 35 square mile area off Atlantic City, New Jersey, was closed in September of 1978 because these criteria were met. Recently, it became apparent that the abundance of small clams extends in all directions from the original closure. In response to concern on the part of the industry that an additional area be closed to fishing to protect these small clams, a series of surveys were conducted in June, July, and August of 1980. Clam size distributions were surveyed over an area roughly four times as large as and including the 1978 closure. An area with unusually high populations of young clams was described and recommended for closure by the scientific advisor to the Mid-Atlantic Fishery Management Council (Council). The Council forwarded this recommendation to the Regional Director for action.

On September 26, 1980, the Regional Director held a public hearing in Dover, Delaware, to determine the social and economic effects of the proposed closure. All those in attendance requested that the closure area be expanded to include adjacent beds of small clams. During the public comment period, which lasted through October 6, 1980, seven written comments were received concerning the action as clarified at the public hearing. Four of the comments strongly supported closure of the entire area, while three were opposed. The comments in opposition were submitted by individuals who were harvesting clams in the area and contended they would suffer hardship if closure occurred. These claims were considered thoroughly. From survey information and discussions with vessel operators familiar with the area, there is evidence that there are alternative beds outside of the proposed closure area. Short term hardship for area harvesters should be offset through increased yields from the area once the clams have reached their optimal size.

On November 13, 1980, the Council recommended closure of the expanded area. To allow for full public review of the proposal, the comment period was reopened from November 21 through December 6, 1980 (45 FR 79126). Two comments were received, both supporting the expanded closure.

Based on the Council's recommendation, public comment, and the survey information showing that 69 percent of the clams in this area are less than 4½ inches in length while less than 15 percent exceed 5½ inches, a determination to close the area has been reached. The area which will be closed is approximately 120 square miles, and includes the area closed in 1978 within its bounds. It is located between three and nine and a half nautical miles offshore of Atlantic City, New Jersey and is defined as follows: beginning at a point 39°15.5'N. latitude and 74°30'W. longitude, which is exactly three nautical miles offshore from the nearest point of the baseline from which the territorial sea is measured; thence northeasterly along a line drawn so that each point on it is three nautical miles from the territorial sea to 39°28.5'N. latitude and 74°14.2'W. longitude; thence southeasterly in a straight line to 39°27.2'N. latitude and 74°5.7'W. longitude; thence southwesterly in a straight line to 39°17.6'N. latitude and 74°14.3'W. longitude; thence southwesterly in a straight line to 39°11.6'N. latitude and 74°23.5'W. longitude; thence northwesterly in a straight line to 39°15.5'N. latitude and 74°30'W. longitude, the point of beginning.

The corners of the area are approximated by Loran "C" bearings. The bearings, on commonly used rates 9960 x and y, are, respectively, 27011–42960; 26938–43100; 26880–43087, 26915–42984; 26961–42917. Fishermen are cautioned that these Loran "C" bearings are provided for convenience only. The legally closed area which will be enforced is that area described by the above latitude and longitude coordinates.

Surveys of the closed area will be conducted to monitor the growth of the clams. The Regional Director will determine when the area may be reopened to fishing based on those surveys. It is expected that the area will remain closed for a period of about one year.

Signed at Washington, D.C., on behalf of the Regional Director, this 30th day of December, 1980.

**Terry L. Leitzell,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

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

[FR Doc. 81-465 Filed 1-6-81; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 46, No. 4
Wednesday, January 7, 1981

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 987

### Domestic Dates Produced or Packed in Riverside County, California; Proposed Amendment of Administrative Rules

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposal invites written comments on amendment of § 987.162 of the administrative rules. This section deals with handlers reporting certain information required by the California Date Administrative Committee (CDAC) for more effective administration of this program.

**DATES:** Comments must be received by January 15, 1981.

**ADDRESSES:** Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours.

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

The Final Impact Statement on this proposed rule is available on request from J.S. Miller.

**SUPPLEMENTARY INFORMATION:** This proposal has been reviewed under USDA procedures estabished in Secretary's Memorandum 1955 to implement Executive Order 12044 and has not been classified "significant". The proposal is being published with less than a 60-day comment period because the crop year began October 1, 1980, and handlers are acquiring dates from the 1980 crop. The CDAC needs this additional information as soon as possible in order to enable it to more effectively administer the marketing agreement and order.

This amendment was unanimously recommended by the CDAC and is in accordance with the provisions of the marketing agreement, as amended, and Order No. 987, as amended, regulating the handling of domestic dates produced or packed in Riverside County, California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposed amendment of § 987.162 of Subpart—Administrative Rules (7 CFR 987.101-987.172) would provide CDAC with more current information regarding handlers' sources of date supplies, and the producers from whom they acquire dates. Section 987.38 of the order authorizes CDAC to obtain this information but it is reported only once annually and does not provide current information for the CDAC to effectively carry out its duties, in this case primarily compliance with the order's requirements. This additional information would be included on CDAC Form No. 6, which is submitted each month pursuant to § 987.162, and is each handler's report of acquisitions and disposition of dates. Requiring handlers to include this additional information on a report currently required is designed to minimize any additional reporting burden on handlers. Therefore the proposal is to revise § 987.162 of Subpart—Administrative Rules (7 CFR 987.101-987.172) to read as follows:

#### § 987.162 Handler acquisition and disposition.

Handlers shall file CDAC Form No. 6 with the Committee by the 10th of each month, reporting at least the following for the preceding month: (1) Their acquisitions of field run dates; (2) their shipments of marketable dates in each outlet category; (3) their shipments of free dates and disposition of restricted dates, whenever applicable, and (4) their purchase from other handlers of DAC, Export, Product, Graded and field run dates. In addition this report shall include the names and addresses of any producers not previously identified pursuant to § 987.38, the quantity of dates acquired from each producer, the location of such producer's date garden, the acreage of that garden, and the estimated current season's production from that garden.

Dated: December 31, 1980.

**D. S. Kuryloski,**

*Acting Director, Fruit and Vegetable Division.*

[FR Doc. 81-450 Filed 1-6-81; 8:45 am]

BILLING CODE 3410-02-M

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Ch. I

### Issuance of Quarterly Report on Proposed Rules

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of Quarterly Report.

**SUMMARY:** The Nuclear Regulatory Commission has issued the November 30, 1980, Quarterly Report on Proposed Rules. The report, which is a quarterly summary of proposed rules that are pending final action, is issued to provide the public with information regarding NRC's rulemaking activities.

**ADDRESSES:** A copy of this report, designated NRC Status of Proposed Rules—November 30, 1980, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

Requests for single copies of the report, or a request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

**FOR FURTHER INFORMATION CONTACT:** John Philips, Chief, Rules and Procedures Branch, Office of Administration, Telephone 301-492-7086.

Dated at Bethesda, Maryland this 30th day of December, 1980.

For the Nuclear Regulatory Commission.

**J. M. Felton,**

*Director, Division of Rules and Records, Office of Administration.*

[FR Doc. 81-450 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM81-3]

## Proposed Rulemaking To Eliminate Requirement of Federal Entities To File Reports Pursuant to § 141.1

Issued December 30, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission proposes to eliminate the entire requirement for Federal entities to file the "Annual Report for Electric Utilities, Licensees and Others (Class A and Class B)," FPC Form No. 1 and its modified versions, which are prescribed by 18 CFR 141.1.

The information collected in Federal filings of Form No. 1 and its modified versions includes summary financial data, balance sheet supporting data, income statement supporting data and electric plant, sales, operating and statistical data.

These data have been collected in conjunction with the Commission's headwater benefits program and Federal rate cases. Some of this information, however, supplements and duplicates data submitted for assessment of headwater benefits. The information is also used to supplement Federal rate filings, but is of very limited use in its present format. The Commission, therefore, finds that the data currently filed by Federal entities pursuant to § 141.1 are not useful for the performance of its regulatory reponsibilities and can be elimited in their entirely.

Revisions to consolidate and standardize the headwater benefits and Federal rate filing requirements are expected in the next year, and may include data similar to that proposed for deletion herein. In the meantime, the Commission will continue to use current Federal rate and and headwater benefits submissions, and specific data requests to obtain information needed for review in these areas.

DATES: Comments are due by January 29, 1981.

ADDRESS: Comments on this Notice should be addressed to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM81-3.

FOR FURTHER INFORMATION CONTACT: Ellen Brown, Office of Program Managements, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 3317, Washington, D.C. 20426, (202) 357-8182.

The Federal Energy Regulatory Commission (Commission) is engaged in an ongoing effort to eliminate unnecessary reporting burdens and to more clearly define its reporting requirements. This rulemaking to entirely eliminate the filing by Federal entities of information pursuant to 18 C.F.R. § 141.1, "Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B)", is part of that effort, and reflects a new evaluation of the data required by the Commission for regulatory purposes.

There is also currently pending at the Commission a rulemaking proceeding to revise Form No. 1—the major annual report filed with the Commission by *non*-Federal (*i.e.*, investor-owned) Class A and Class B electric utilities, licensees and other entities. (*See* Notice of Proposed Rulemaking, issued July 10, 1980, Docket No. RM80-55, 45 FR 47704, July 16, 1980.) That proceeding is, however, separate and distinct from the instant rulemaking, which solely addresses the versions of Form No. 1 filed by *Federal* entities that generate and sell electricity.

### I. Background

The Commission is authorized to require information in § 141.1 pursuant to sections 304 and 311 of the Federal Power Act (16 U.S.C. §§ 792-828(c)). Section 141.1 requires annual collection of information from Class A and Class B electric utilities, licensees and other entities, including Federal entities engaged in the generation, transmission, distribution or sale of electric energy.[1] The prescribed filing primarily includes summary financial data; balance sheet supporting data; income statement supporting data; and electric plant, sales, operating and statistical data.

The reports submitted by Federal entities pursuant to § 141.1 are all modified versions of Form No. 1. The modified Form No. 1 reports are filed by a variety of Federal entities, including Power Marketing Administrations within the Department of Energy, and the Water and Power Resources Service and Bureau of Indian Affairs within the Department of Interior. Among these Federal versions of Form No. 1 is "Form No. 1002", an unofficial version of the Form No. 1 which is filed by several projects within the Army Corps of Engineers. All of these Federal reports are currently required to be filed on or before December 31 of each year, and are based on data from the immediately preceding fiscal year (October 1 through September 30).[2]

### II. Use of the Data

The information collected from filings by Federal agencies of Form No. 1[3] has been used in the Commission's headwater benefits program (*see* 18 CFR 11.25—11.31, 13.1) and in Federal rate cases (*see* Delegation Order No. 0204-33, December 21, 1978, 43 FR 60636, December 28, 1978). Both of these areas are currently under review by the Commission.

Some of this information in the Form No. 1 Federal filings has been found to supplement and duplicate data submitted for assessment of headwater benefits. The information is also used to supplement Federal rate filings, but is of very limited use in its present format. The Commission, therefore, finds that the data currently filed by Federal entities pursuant to § 141.1 are not useful for the performance of its regulatory responsibilities and can be eliminated in their entirety.

Revisions to consolidate and standardize the headwater benefits and Federal rate filing requirements are expected in the next year, and may include data similar to that proposed for deletion herein. In the meantime, the Commission will continue to use current Federal rate and headwater benefits submissions, and specific data requests to obtain information needed for review in these areas.

The Energy Information Administration (EIA) may require the continued collection of the data herein proposed for deletion for itself or for some other sponsors within the Department of Energy. Another Federal agency could also require this data. If EIA or another agency should make such a determination during this rulemaking proceeding, the Commission would issue a Final Rule in this docket with a delayed effective date. This would provide the agencies a period of time in which to justify the need for the data and receive approval for the collection of this information under their own authority.

[1] A Class A electric utility, licensee or other entity is one having annual electric operating revenues of $2,500,000 or more. A Class B electric utility, licensee or other entity is one having annual electric operating revenues of $1,000,000 or more but less than $2,500,000.

[2] In anticipation of this Notice of Proposed Rulemaking, the Commission issued on November 5, 1980 an Interim Rule to suspend, until further notice, the 1980 filing and future filings prescribed for Federal authorities by 18 CFR 141.1 (45 FR 74715, November 12, 1980).

[3] All references to the Federal filings of Form No. 1 in this Notice of Proposed Rulemaking include Form No. 1002.

### III. Requested Comments

The Commission invites interested persons to submit written comments on this proposal. The Commission specifically requests that the comments address the following questions:

1. Does the proposed elimination of data affect any Commission regulatory functions?

2. Is there any reason for continued collection of this data by another Federal agency? Suggestions for the continued collection of data which have been proposed for elimination should identify the proper agency and the purpose for the proposed collection of the data.

### IV. Comment Procedures

Interested persons wishing to comment on this proposal should submit copies of their comments to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM 81-3. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EST, January 29, 1981 will be considered by the Commission prior to promulgation of the Final Rule. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection during regular business hours in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(Federal Power Act, as amended, 16 U.S.C. §§ 792-828(c); Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352; E.O. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, the Commission proposes to eliminate the requirement for Federal entities to file the "Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B)," including all modified versions of such Form No. 1, in accordance with 18 CFR 141.1., and to revise Part 141 of Chapter I, Title 18 of the Code of Federal Regulations, as set forth below.

By direction of the Commission.

**Kenneth F. Plumb,**

*Secretary.*

Section 141.1 is amended in paragraphs (b) and (c) to read as follows:

**§ 141.1 FPC Form No. 1, Annual Report for Electric Utilities, Licensees, and Others (Class A and Class B).**

* * * * *

(b)(1) Each Class A electric utility, licensee, and other entity, *i.e.*, each corporation, person, or licensee as defined in section 3 of the Federal Power Act (16 U.S.C. 792, *et seq.*), including any agency, authority or other legal entity or instrumentality engaged in generation, transmission, distribution, or sale of electric energy, * * *

(2) This report form is not prescribed for any agency, authority or instrumentality of the United States, nor is it prescribed for municipalities as defined in section 3 of the Federal Power Act; *i.e.*, a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

(c)(1) Each Class B electric utility, licensee, and other entity; *i.e.*, each corporation, person, or licensee as defined in section 3 of the Federal Power Act, inlcluding any agency, authority or other legal entity or instrumentality engaged in generation, transmission, distribution or sale of electric energy, * * *

(2) This report form is not prescribed for any agency, authority or instrumentality of the United States, nor is it prescribed for municipalities as defined in section 3 of the Federal Power Act; *i.e.*, a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

* * * * *

[FR Doc. 81-463 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

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## 18 CFR Part 260

**[Docket No. RM 80-69]**

## Revision of Annual Report of Gas Supply for Certain Natural Gas Pipelines: Form No.15, Cancellation of Public Meeting, and Reopening of Comment Period

Issued: December 24, 1980.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of Cancellation of Public Meeting, and Reopening of Comment Period.

**SUMMARY:** On December 3, 1980, the Federal Energy Regulatory Commission (Commission) issued a Notice of Agenda Change in Pubic Meetings for discussion of revisions to the Form No. 15, "Annual Report of Gas Supply for Certain Natural Gas Pipelines" (45 FR 81062, December 9, 1980). In that Notice, the Commission indicated that a series of public meetings would be held to discuss proposed revisions to Form No. 15. Meetings were conducted on December 2, 9, and 16, 1980). A final meeting was scheduled for January 16, 1981, to discuss data automation of the form.

Pursuant to discussions at the December 16th meeting it has been decided that the January 16th meeting (for which a discussion of data automation of the form was scheduled) is not necessary. Therefore, the meeting of January 16, 1981 is cancelled. Comments concerning data automation of Form No. 15 can be submitted in writing in response to the second Notice of Proposed Rulemaking in this docket (Notice), which is expected to be issued early in 1981.

Written comments will be expected to be issued early in 1981.

**DATE:** Comment Period on RM80-69 is reopened through and including January 16, 1981.

**FOR FURTHER INFORMATION CONTACT:** Cathy Ciaglo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 8100K, Washington, D.C. 20426 (202) 357-8526.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 81-462 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[LR-135-76]**

## Limitations on Reorganization Treatment for Investment Companies; Proposed Rulemaking

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations concerning limitations on reorganization treatment for certain investment companies. Changes in the applicable tax law were made by the Tax Reform Act of 1976 and the Revenue Act of 1978.

**DATES:** Written comments and requests for a public hearing must be delivered or mailed by March 9, 1981. The amendments are proposed to be effective for acquisitions occuring after February 17, 1976, in taxable years ending after that date.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, attn: CC:LR:T (LR-135-76), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Swift of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, attn: CC:LR:T, 202-566-3458 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 368 of the Internal Revenue Code of 1954. These proposed amendments add a new § 1.368-6 which sets forth the limitations under section 368(a)(2)(F) on reorganization treatment for certain investment companies. Section 368(a)(2)(F) of the Code was added by section 2131(a) of the Tax Reform Act of 1976 (90 Stat. 1525) and amended by section 701 of the Revenue Act of 1978 (92 Stat. 2767).

Section 368(a)(2)(F)(i) denies reorganization treatment to undiversified investment companies and their stock and security holders, but only if the transaction involves two or more investment companies. This general rule applies to a corporation that is an undiversified investment company immediately before the transaction, whether or not any surviving corporation is diversified after the transaction. Assets acquired for the purpose of diversifying or avoiding investment company status are excluded in applying these rules. The general rule does not apply to reorganizations of commonly-owned corporations.

**Definition of Investment Company**

Under section 368(a)(2)(F)(iii), a corporation is an investment company if 50 percent or more of the value of its total assets are stock and securities and 80 percent or more of the value of its total assets are held for investment.

Securities under section 368(a)(2)(F) include items that are securities under the Investment Company Act of 1940. Interpretations of that act indicate a corporation's interest in a partnership will be a security if the corporation expects profits solely from the efforts of other partners. *See*, S.E.C. Op. No. 78-813-CC; *see generally, S.E.C.* v. *W. J. Howey Co.*, 328 U.S. 293 (1946).

Paragraph (d) of the proposed regulations provides rules for determining if an asset is "held for investment". In general, an asset is held for investment if held for gain from appreciation in value or for production or collection of passive income. Assets held primarily for sale to customers in the ordinary course of business are not considered held for investment. If the taxpayer occupies a portion of real property for its business and rents out the remaining portion, each portion is treated as a separate asset.

Under section 368(a)(2)(F)(iii), regulated investment companies (RIC's) and real estate investment trusts (REIT's) are considered investment companies. However, a REIT or RIC which terminates its election of RIC or REIT status may continue to be characterized as an investment company if the 50 percent and 80 percent tests are met.

The definition of an investment company under section 351(d) is revised prospectively to include certain corporations defined as investment companies under section 368(a)(2)(F)(iii). The new definition would continue to allow noncorporate transferors to organize a bank or insurance company under section 351(a).

**"Look-Through" Rule**

Section 368(a)(2)(F)(iii) requires a "look-through" rule in determining if a corporation is an investment company. The legislative history indicates that a similar "look-through" rule applies in determining under section 368(a)(2)(F)(ii) if an investment company is diversified. *See, S. Rep. No.* 94-938, 94th Cong., 2d Sess. 51, n.16 (1976). Paragraph (a) of the proposed regulations accordingly adopts the "look-through" rule for determining if an investment company is diversified.

Under the "look-through" rule stock in a subsidiary is disregarded in determining whether the parent is an investment company, and if so, whether it is diversified or undiversified. The assets of the subsidiary are considered owned by the parent.

For the "look-through" rule, a corporation is a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of the subsidiary's voting stock or 50 percent or more of the total value of all of the subsidiary's outstanding stock. The proposed regulations state that indirect as well as direct ownership of stock is considered in determining if a corporation is a subsidiary.

The proposed regulations also contain "look-through" rules for corporations owning a partnership interest that is considered a security, paralleling the rule for coporate subsidiaries. If a partnership interest held by a corporation is not a security, the corporation is considered owning a ratable share of each partnership asset.

**Assets Excluded**

Under section 368(a)(2)(F)(iv), cash, cash items, and Government securities are excluded in determining whether a corporation is an investment company and, if so, whether it is diversified or undiversified. In general, the Commissioner also must exclude assets acquired for the purpose of ceasing to be an investment company or qualifying an investment company as diversified. However, a corporation may not cease to be an investment company as the result of the exclusion of assets acquired.

Paragraph (j)(3) of the proposed regulations establishes a presumption that assets acquired by a corporation that is an investment company at any time during the 365 days immediately prior to a transaction are acquired for an impermissible purpose. The proposed regulations describe the evidence necessary to overcome the presumption and set forth two "safe harbors". A special rule applies under paragraph (j)(8) of the proposed regulation to handle an obvious planning device.

**Certain Collateral Effects**

Paragraph (l) of the proposed regulations provides guidance as to certain significant collateral effects of denial of reorganization treatment under section 368(a)(2)(F). This paragraph is not intended to describe all collateral tax consequences or alter prior law or Internal Revenue Service positions as to such consequences.

If under section 368(a)(2)(F) a transaction is not a reorganization with respect to an investment company and its shareholders, nonrecognition treatment under sections 361 and 354 is not available. The statute does not state expressly whether other nonrecognition provisions, such as section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations), apply. The committee reports indicate that Congress deliberately refrained from expressing an opinion regarding the applicability of section 337. *See*, S. Rep. No. 94-938, 94th Cong., 2d Sess. 49, n. 11 (1976). Under paragraph (l)(1)(ii) of the proposed regulations, section 337 may apply if reorganization treatment is denied and if the other requirements of section 337 are met.

Under the proposed regulations, section 351 may apply to the transaction. However, the proposed regulations under section 351(d) make clear that section 351 may not be used to circumvent the limitations under section 368(a)(2)(F).

**Reverse Acquisition Rule**

Under section 368(a)(2)(F)(vi), an undiversified investment company that acquires assets of another corporation may recognize gain on the transaction by reason of the "reverse acquisition" rule. For a company denied reorganization treatment under the reverse acquisition rule, the transaction is considered a liquidation, unless section 351 applies. If the transaction is treated as a liquidation, earnings and profits and other tax items of the acquiring company are eliminated unless section 334(b)(1) would apply to the constructive acquisition. However, to the extent gain is not recognized by the acquiring company under section 337, the basis and holding period of its assets are unchanged.

**Triangular Transactions**

Paragraph (o) of the proposed regulations contains special rules for triangular transactions such as those described in section 368(a)(2)(D). For convenience, in transactions described in section 368(a)(2)(D), the target corporation is designated T, the corporation whose stock is distributed in the transaction is designated P, and P's subsidiary, which acquires T's assets, is designated S. A special rule applies for reverse triangular mergers described in section 368(a)(2)(E) and drop-downs described in section 368(a)(2)(C).

A key factor in applying section 368(a)(2)(F) to triangular transactions is whether P is an investment company and, thus, whether T shareholders become shareholders in an investment company. In determining the number of parties to the transaction, P and S are treated as a single party, and T is a single party. Thus, if T is not an investment company, section 368(a)(2)(F) does not apply to the transaction, whether or not P, S, or both are investment companies. In applying the general rule and the reverse acquisition rule, however, P and S are treated as separate parties.

If P is an operating company and T is an undiversified investment company, T and its shareholders will be allowed reorganization treatment because T's shareholders become shareholders of an operating company. If S is an undiversified investment company, however, S is denied reorganization treatment under the reverse acquisition rule because the transaction may result in diversification of its assets.

If P is a diversified investment company and T is an undiversified investment company, T would be denied reorganization treatment under the general rule because T's shareholders would become shareholders of an investment company. S is not denied reorganization treatment whether or not S is a diversified investment company because even if S were an undiversified investment company P and S together would hold a diversified portfolio before the transaction.

For purposes of section 368(a)(2)(F), a reverse triangular merger is treated the same as a forward triangular merger under section 368(a)(2)(D). The treatment of the transaction is the same whether S is newly organized or existing because the critical factor is that T's shareholders receive P stock and not that S transfers operating assets. A transaction described in section 368(a)(2)(C) is treated as a two-party acquisition of T by P.

**Comments and Requests for a Public Hearing**

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

**Drafting Information**

The principal author of this regulation is Richard L. Mull of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation both on matters of substance and style.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

**Paragraph 1.** Paragraph (c) of § 1.351– is amended as follows:

1. Subparagraphs (1)(ii) and (4) are revised.

2. Subparagraph (5) is redesignated as subparagraph (5)(i) and a new subdivision (ii) is added.

3. Subparagraph (6) is amended by adding new examples (3) and (4).

These new and revised provisions read as follows:

**§ 1.351–1 Transfer to corporation controlled by transferor.**

* * * * *

(c)(1) * * *

(ii) The transferee is (*a*) a regulated investment company, (*b*) a real estate investment trust, (*c*) a corporation more than 80 percent of the value of whose assets (excluding cash and nonconvertible debt obligations) are held for investment and are readily marketable stocks or securities, or interests in regulated investment companies or real estate investment trusts, or (*d*) for transfers made after February 17, 1976, any other corporation that is an investment company as defined in section 368(a)(2)(F)(iii), if one or more of the transferors also is such an investment company.

* * * * *

(4) In making the determination required under subparagraphs (1)(ii)(*c*) and (5)(ii) of this paragraph, stock and securities in subsidiary corporations shall be disregarded and the parent corporation shall be deemed to own its ratable share of its subsidiaries' assets. A corporation shall be considered a subsidiary if the parent owns directly, or indirectly through another subsidiary, 50 percent or more of (i) the combined voting power of all classes of stock entitled to vote or (ii) the total value of shares of all classes of stock outstanding. A corporation's indirect ownership of a lower-tier subsidiary is determined by multiplying the percentages of stock owned by each corporation in the chain of ownership. For examples of similar "look-through" rules, see § 1.368–4(g)(4).

(5) * * *

(ii) For transfers made after February 17, 1976, if there is any one transferor (or two or more transferors of identical assets) to a corporation that is not newly organized, the transfer will be treated as resulting in diversification unless the transferee's assets are identical to the assets transferred.

(6) * * *

*Example (3).* Corporations W and X are investment companies (as defined in § 1.368-6(c)(2)). W's only asset is stock in corporation Y, listed on the New York Stock Exchange. X's only asset is stock in corporation Z, also listed on the New York Stock Exchange. In 1977, W issues voting stock constituting 80 percent of W's outstanding stock in exchange for transfer by the X shareholders of all X voting stock. Since X's assets were not identical to W's, there is diversification and nonrecognition treatment is denied under section 351(d). Section 1032 will apply to W but X's shareholders must recognize gain or loss. For treatment under section 368(a)(2)(F), see § 1.368–4(m)(3).

*Example (4).* Assume the same facts as in example (3), except X's only asset is stock in corporation Y. There is no diversification, and hence X's shareholders do not recognize gain or loss.

Par. 2. A new § 1.368–4 is added to read as follows:

**§ 1.368–4 Transactions involving investment companies.**

(a) *Effective date.* (1) *In general.* Section 368(a)(2)(F) applies to acquisitions occurring after February 17, 1976. It does not apply, however, to acquisitions occurring after that date if a ruling was issued by the Internal Revenue Service before February 18, 1976, stating that the particular transaction will qualify as a reorganization under section 368(a)(1).

(2) *Date of acquisition.* (i) For an asset acquisition, the date of acquisition is the date of transfer. To determine the date of transfer, see § 1.381(b)–1(b).

(ii) For a stock acquisition, the date of acquisition is the date the exchange of stock occurs. If all stock is not exchanged on the same date, the date of exchange is the date the exchange of all stock under the plan of reorganization is complete.

(b) *In general*—(1) *Scope.* Section 368(a)(2)(F)(i) applies to a transaction described in section 3689(a)(1) (other than section 368(a)(1)(E)) if two or more investment companies are parties to the transaction.

(2) *General rule.* If immediately prior to a transaction to which Section 368(a)(2)(F)(i) applies, an undiversified investment company is a party to the transaction, the transaction is not a reorganization for that company or its stock and security holders. The general rule applies even if the undiversified investment company or the surviving company remains undiversified after the transaction.

The general rule does not apply, however, with respect to a corporation that immediately before the transaction is a diversified investment company or is not an investment company. Further, the general rule does not apply if the common ownership exception (described in paragraph (k) of this section) is satisfied.

(3) *Cross references.* (i) For rules relating to assets acquired for the purpose of diversifying or ceasing to be an investment company, see paragraphs (h) and (j) of this section.

(ii) For a "reverse acquisition" rule requiring that an undiversified investment company (and its stock and security holders) recognize gain or loss even if it is the acquiring corporation, see paragraph (m) of this section.

(iii) Certain significant effects of denial of reorganization treatment are discussed in paragraphs (l) and (n) of this section.

(iv) Section 368(a)(2)(F)(viii) contains a special rule for treatment of certain losses sustained after September 26, 1977, in a transaction involving two or more investment companies.

(v) For special rules for triangular transactions, see paragraph (o) of this section.

(c) *Definitions.* The following definitions apply under section 368(a)(2)(F):

(1) *Party to the transaction.* A corporation is a party to the transaction if, but for the application of section 368(a)(2)(F), it would be a party to a reorganization under section 368(b).

(2) *Investment company.* A corporation is an investment company if it is—

(i) A corporation 50 percent or more of the fair market value of whose total assets are stock and securities (whether or not held for investment) and 80 percent or more of the fair market value of whose total assets are held for investment,

(ii) A regulated investment company (as defined in section 851), or

(iii) A real estate investment trust (as defined in section 856).

(3) *Diversified investment company.* A corporation is a diversified investment company if it is a regulated investment company or a real estate investment trust, or if it meets the requirements of section 368(a)(2)(F)(ii). In determining under the 25 and 50 percent tests of section 368(a)(2)(F)(ii) if a company is diversified, "stock and securities" include only stock and securities held for investment. The stock and securities of all members of a controlled group of corporations (as defined in section 1563(a)) are considered stock and securities of a single company.

(4) *Undiversified investment company.* An undiversified investment company is an investment company that is not a diversified investment company.

(5) *Securities.* (i) In applying section 368(a)(2)(F)(ii) and (iii), securities include State and local government obligations, commodity futures contracts, and shares of regulated investment companies and real estate investment trusts. Securities also include items that are securities within the meaning of the Investment Company Act of 1940 (15 U.S.C. 80a–2 (36)). Thus, securities also include any note, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, pre-organization certificate or subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral right, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. Although treasury stock also is a security within the meaning of the Investment Company Act of 1940, it is not considered a security under this paragraph (c)(5). Securities include partnership interests that are considered investment contracts under the Investment Company Act of 1940. Thus, the interest of a passive general partner or of a limited partner, in general, will be a security.

(ii) For transfers made before September 27, 1977, the authority for this paragraph (c)(5) is section 7805 of the Code. For transfers made after September 26, 1977, the authority for this paragraph (c)(5) is section 368(a)(2)(F)(vii).

(6) *Cross references.* (i) For "look-through" rules for determining whether a corporation is an investment company and, if so, whether it is diversified, see paragraph (g) of this section.

(ii) Rules for excluding certain assets in making those determinations are contained in paragraphs (h) and (j) of this section.

(iii) Rules for determining the parties to a triangular transaction are set forth in paragraph (o) of this section.

(d) *Assets held for investment*—(1) *General rule.* Assets are held for investment under the 80 percent test of section 368(a)(2)(F)(iii) and stock and securities are held for investment under the 25 and 50 percent tests of section 368(a)(2)(F)(ii) if—

(i) They are held primarily for (A) gain from appreciation in value, (B) production of passive income, or (C) both of these, and

(ii) They are not held primarily for sale to customers in the ordinary course of a trade or business (within the meaning of section 1221(1)).

(2) *Passive income.* Passive income includes royalties, rents, dividends, interest, and annuities, as those terms are defined in § 1.1372–4(b)(5)(v) through (ix) (relating to certain electing small business corporations).

(3) *Multiple use property.* If the taxpayer uses part of real property in its active business and holds the remaining portion for another purpose, such as rental, each part is treated as a separate asset in determining if the taxpayer is an investment company. The determination of the portion of property used for a particular purpose is based on fair market value.

(4) *Cross references.* Special rules for interests in trusts and partnerships are

set forth in paragraphs (e) and (f) of this section, respectively.

(5) *Examples.* The following examples illustrate this paragraph (d).

*Example (1).* Corporation L owns stock in several corporations. L has less than a 50 percent interest in each of those corporations. Although L is not a dealer, some of the stock is held for short-term speculation and the rest for long-term gain and for dividends. All the stock is held for investment.

*Example (2).* Corporation M, a bank that is a dealer is securities, holds local government bonds for a resale to bona fide purchasers. M also owns a portfolio of stock and securities that it purchased for appreciation in value and dividends. If M is allowed capital gain treatment under section 1236 on sales from the portfolio, the stock and securities held by M for appreciation and dividends will be considered assets held for investment. However, since the bonds are held primarily for sale to customers in the ordinary course of the bank's business (within the meaning of section 1221(1)), they are not held for investment.

*Example (3).* Corporation N owns a building it occupies entirely for its active business. The building is not held for investment.

*Example (4).* Corporation O owns an office building it leases to unrelated tenants. It does not render significant services to the tenants. The building is held for investment.

*Example (5).* Corporation P owns a yacht that is held for charter. P performs significant services in connection with rental of the yacht. The income received from the charter operation is not passive income and the yacht is not held for investment.

*Example (6).* Corporation Q owns unimproved land that it does not hold primarily for sale to customers in the ordinary course of a trade or business (within the meaning of section 1221(1)). Q hopes that it can sell the property in 10 years at a substantial gain. To offset real estate taxes, Q uses the land as a parking lot. Although the income received from parking automobiles is not passive income, the property is held for investment because it is held primarily for appreciation in value.

*Example (7).* Corporation R owns unimproved real estate held primarily for sale to developers in the ordinary course of its real estate business. Until the time of sale, R allows various organizations to use the property at a nominal rent. Although the rent is passive income, the property is not held for investment.

*Example (8).* Corporation S uses in its active business a portion of a building it owns. That portion represents one-third of the fair market value of the entire building. S leases the other portion of the building to unrelated tenants. Each portion is considered a separate asset in determining if the leased portion is held for investment.

(e) *Interests in trusts.* Assets held by a trust to which subchapter J applies (other than a grantor trust) are considered owned by its beneficiaries in proportion to their actuarial interest in the trust. The factors and methods set forth in § 20.2031-10 of this chapter (Estate Tax Regulations) for use in ascertaining the value of an interest in property for estate tax purposes are used to determine a beneficiary's actuarial interest in a trust.

(f) *Partnership interests—In general.* If the partner's interest in the partnership is not a security under paragraph (c)(5) of this section, a partner is considered owning a ratable share of each asset held by the partnership. The ratable share is a percentage of the fair market value of each asset. If the partner has the same interest in capital, profits, and losses, the percentage is its interest in the partnership. In all other cases the percentage is determined on the basis of all facts and circumstances.

(g) *"Look through" rule*—(1) *Stock or securities in subsidiaries.* A "look-through" rule applies in determining if a corporation is an investment company and if an investment company is diversified. Under this rule, a corporation's ownership of stock or securities in a subsidiary (as defined in paragraph (g)(2) of this section) is disregarded, and the corporation is considered owning a ratable share of each asset of the subsidiary equal to the percentage of the fair market value of the subsidiary's outstanding stock owned by the parent.

(2) *Subsidiary.* For purposes of this paragraph (g), a corporation is a subsidiary of any corporation owning directly, or indirectly through another subsidiary, 50 percent or more of (i) the total combined voting power of all classes of the corporation's voting stock or (ii) the total fair market value of all of its outstanding shares.

(3) *Percentage of stock owned in lower tier subsidiaries.* A corporation's indirect ownership of a lower-tier subsidiary is determined by multiplying the percentages of stock owned in each corporation in the chain of ownership.

(4) *Examples.* The following examples illustrate this paragraph (g). Assume in each example that no corporation is a regulated investment company or real estate investment trust.

*Example (1).* Corporations L and M each have only one class of stock. Corporation K owns 80 percent of L's stock and L owns 80 percent of M's stock. L is a subsidiary of K. K's ownership of L stock is disregarded and K is considered owning a ratable share of L's assets including the M stock. M is a subsidiary of L. M is also a subsidiary of K because K owns indirectly 80 percent of L's 80 percent interest in M which is 64 percent of M's stock. K's indirect ownership of M stock is disregarded and K is considered owning a ratable share of M's assets.

*Example (2).* The facts are the same as in example (1) except M owns 70 percent of corporation N's stock. N is a subsidiary of L and M but is not a subsidiary of K. L owns indirectly 80 percent of M's 70 percent interest in N which is 56 percent of N's stock. K owns indirectly 80 percent of L's 56 percent indirect interest in N which is only 44.8 percent of N's stock.

*Example (3).* (a) Corporation O owns 100 percent of corporation P's nonvoting stock which has a fair market value of $50,000. Corporation Q owns 100 percent of P's voting stock which has a fair market value of $50,000.

(b) P is a subsidiary of both O and Q because O owns 50 percent of the fair market value of all classes of P's stock and Q owns 50 percent of P's voting stock. The ownership of P stock by O and Q is disregarded. O and Q are each considered owning 50 percent of the fair market value of each of P's assets.

*Example (4).* (a) Corporation R owns land and stock held for investment in the following proportions and amounts.

| | Percentage R owns | | |
|---|---|---|---|
| | Shares of voting stock (percent) | Total fair market value of outstanding stock (percent) | Fair market value of assets R owns |
| Corporation S | 40 | 40 | $40,000 |
| Corporation T | 30 | 30 | 40,000 |
| Corporation U | 40 | 70 | 15,000 |
| Land | | | 10,000 |
| Total | | | 105,000 |

(b) U is the only subsidiary of R. R's ownership of the U stock is disregarded and 70 percent of the fair market value of each of U's assets is considered owned by R. Assume U's assets (other than cash) are manufacturing equipment with a fair market value of $100,000.

(c) R's total assets are worth $160,000, determined as follows:

| | | |
|---|---|---|
| S stock | $40,000 | |
| T stock | 40,000 | |
| Total stock | | 80,000 |
| Other assets held for investment (land) | | 10,000 |
| Total assets held for investment | | 90,000 |
| Ratable portion of U's assets considered owned by R (70% of $100,000) | | 70,000 |
| Total assets | | 160,000 |

(d) R is not an investment company because even though 50 percent of the fair market value of its total assets are stock or securities, less than 80 percent of the value of its total assets are held for investment. These 50 and 80 percent determinations are made as follows.

$80,000 (stock) divided by $160,000 (total assets) equals 50%

$90,000 (assets held for investment) divided by $160,000 (total assets) equals 56%

*Example (5).* (a) Assume the same facts as in example (4) except R owns less than 50 percent of the fair market value of U's stock. R is an investment company determined as follows:

$96,000 (stock in S, T, and U) ÷ $105,000 (total assets owned) = 90%
$105,000 (assets held for investment directly) ÷ $105,000 (total assets owned) = 100%

(b) R is also an undiversified investment company for two reasons. First, at least 25 percent of the fair market value of R's total assets are invested in the stock of one issuer (in this case both S and T). Second, at least 50 percent of the fair market value of R's total assets are invested in the stock of 5 or fewer issuers (S, T, and U). These 25 and 50 percent determinations are made as follows:

$40,000 (S stock or T stock) ÷ $105,000 (total assets owned directly) = 38%
$95,000 (stock in S, T, and U) ÷ $105,000 (total assets owned directly) = 90%

*Example (6).* (a) The facts are the same as in example (4) except that U's assets consist of $20,000 of corporation V stock held primarily for sale to customers in the ordinary course of U's business, $30,000 of stock in corporation W that is held for investment, and $50,000 of land held for investment. Assume that neither V nor W is considered a subsidiary of U under this paragarph (g). R is considered owning 70 percent of each of those assets which is $14,000 of V stock, $21,000 of W stock, and $35,000 of land.

(b) R's total assets are worth $160,000 determined as follows:

| | | |
|---|---|---|
| S stock | $40,000 | |
| T stock | 40,000 | |
| Ratable share of W stock | 21,000 | |
| Total stock held for investment | | $101,000 |
| Other assets held for investment directly (land) | 10,000 | |
| Share of other assets held for investment by U (land) | 35,000 | |
| Total other assets held for investment | | 45,000 |
| Total assets held for investment | | 146,000 |
| Stock held primarily for sale (ratable share of V stock) | | 14,000 |
| Total assets | | 160,000 |

(c) R is an investment company because at least 50 percent of its assets are stock or securities and at least 80 percent of the fair market value of its total assets are held for investment. These 50 and 80 percent determinations are made as follows:

$115,000 (stock in S, T, V, and W) ÷ $160,000 (total assets) = 72%
$146,000 (assets held for investment) ÷ $160,000 (total assets) = 91%

(d) R is an undiversified investment company. Not more than 25 percent of the fair market value of its total assets is invested in the stock of any one corporation. However, at least 50 percent of the fair market value of its total assets is invested in the stock of 5 or fewer issuers. These 25 and 50 percent determinations are made as follows:

$40,000 (S or T stock) ÷ $160,000 (total assets) = 25%
$101,000 (S, T, and W stock) ÷ $160,000 (total assets) = 63%

(5) *Interest in controlled partnership.* If a corporation's interest in a controlled partnership is a security under paragraph (c)(5) of this section, the corporation's ownership of that interest is disregarded, and the corporation is considered owning a ratable share of each partnership asset. The ratable share is a percentage of the fair market value of each asset. If the corporation has the same interest in the capital, profits, and losses of the partnership, the percentage is its interest in the partnership. In all other cases, the percentage is determined on the basis of all facts and circumstances.

(6) *Controlled partnership.* A partnership is controlled by a corporate partner if the corporate partner owns directly, or indirectly through another controlled partnership, a 50 percent or more interest in either the partnership income or capital. A lower-tier partnership is a controlled partnership only if the interest in every partnership in the chain of ownership is considered a security under paragraph (c)(5) of this section. A corporation's indirect ownership of a lower-tier partnership is determined in a manner similar to the manner for determining the percentage of stock owned in a lower-tier subsidiary under paragraph (g)(3) of this section.

(h) *Assets excluded*—(1) *In general.* Under section 368(a)(2)(F)(iv), cash, cash items, and United States Government securities are excluded from the numerator and denominator in applying the percentage tests under section section 368(a)(2)(F) (ii) and (iii). In addition, the Commissioner shall exclude certain other assets described in paragraph (j) of this section.

(2) *Cash items.* Cash items under section 368(a)(2)(F)(iv) include receivables and cash equivalents other than securities (as defined in paragraph (c)(5) of this section). The term "cash equivalents" has the same meaning given the term "cash and its equivalents" under § 1.334–1(c)(4)(v)(*b*) (relating to adjustments to basis in stock for transactions described in section 334(b)(2)).

(i) [Reserved]

(j) *Assets acquired for avoidance purposes*—(1) *General rule.* (i) For purposes of determining whether a corporation is an investment company and, if so, whether it is diversified, the Commissioner shall exclude under section 368(a)(2)(F)(iv) those assets acquired (with borrowed funds or otherwise) after February 17, 1976, for an impermissible purpose. Assets shall be excluded if an impermissible purpose is a major purpose of the acquisition. The impermissible purpose need not be the sole purpose. Assets shall not be excluded for purposes of determining whether a corporation is an investment company if as a result of the exclusion the corporation would cease to be an investment company.

(ii) For "safe harbors", see paragraph (j) (4) and (5) of this section. For limitations on the "safe harbors", see paragraph (j)(7) of this section.

(2) *Impermissible purposes.* The impermissible purposes are (i) terminating a corporation's status as an investment company and (ii) qualifying a corporation as a diversified investment company.

(3) *Evidentiary presumption.* (i) The Commissioner may presume that assets are acquired for an impermissible purpose if they are acquired by a corporation that is an undiversified investment company at any time during the 365-day period ending on the day before the date the assets are acquired. This presumption may be overcome by clear and convincing evidence, such as evidence the corporation acquired assets in the ordinary course of business as replacements for similar assets that would not have been disregarded under this paragraph (j).

(4) *Newly-formed corporations.* Assets of a corporation are not excluded if they were acquired by the corporation during the 365-day period beginning with the date the corporation comes into existence (within the meaning of section 6012 and § 1.6012–2(a)). For purposes of this paragraph (j), the first 365-day period of a corporation's existence is referred to as its "initial period of incorporation".

(5) *30-day grace period.* (i) If a corporation loses a qualifying status at any time after the initial period of incorporation, assets acquired within 30 days of the loss of status shall not be excluded ("30-day grace period"). However, the 30-day grace period does not apply more than once in every two taxable years.

(6) *Qualifying status.* For purposes of this paragraph (j), a corporation has a qualifying status if without applying this paragraph (j) it would be a diversified investment company or would not be an investment company.

(7) *Limitation on "safe harbors".* Neither the newly-formed corporation rule nor the 30–day grace period apply if within the 10-year period before the transaction that (without applying section 368(a)(2)(F)) would be a reorganization the corporation was a party to a reorganization qualifying under section 368.

(8) *Special rules for transactions under common ownership exception.* If—

(i) The assets of a corporation are acquired by a second corporation in a common ownership reorganization

(described in paragraph (k) of this section).

(ii) Immediately before the common ownership reorganization the first corporation is an undiversified investment company and the second corporation has a qualifying status, and

(iii) The common ownership reorganization is part of a plan to have a qualifying status for the corporation holding the undiversified investment company's assets,

then the assets held by the second corporation immediately before the common ownership reorganization are excluded in determining the status of the surviving corporation for a subsequent reorganization.

(9) *Examples.* The following examples illustrate this paragraph (j).

*Example (1).* Corporation L, a calendar year taxpayer, comes into existence (within the meaning of section 6012) on January 1, 1979. From January 1, 1979, through January 1, 1983, L (without regard to its initial period of incorporation) would be a diversified investment company. L was not a party to a reorganization at any time during its corporate existence prior to January 1, 1983. On January 1, 1983, L merges into corporation M. None of the assets L acquired during L's initial period of incorporation are excluded. No assets acquired by L between January 1, 1980, and January 1, 1983, are excluded because L was a diversified investment company for that period.

*Example (2).* The facts are the same as in example (1) except on January 15, 1982, L becomes an undiversified investment company. The fair market value of stock it owns in corporation N has increased so that the N stock represents 30 percent of the total fair market value of L's assets on January 15, 1982. On January 30, 1982, L uses cash to purchase additional assets. Assume that after the acquisition, N stock represents only 20 percent of the total fair market value of L's assets. Under the 30-day grace period, the assets purchased on January 30, 1982, are not excluded for purposes of determining L's status on January 1, 1983.

*Example (3).* Corporation O comes into existence (within the meaning of section 6012) in 1975. It operates an undiversified investment company from 1975 until January 1, 1977. On that date it acquires stock in 9 corporations for purposes of qualifying as a diversified investment company. On January 1, 1980, O merges into corporation P, a diversified investment company. The assets O acquired on January 1, 1977, are presumed acquired for an impermissible purpose. On these facts, there is no clear and convincing evidence to the contrary. Thus, the assets acquired on January 1, 1977, are excluded in determining if, immediately before the merger, O is an undiversified investment company.

*Example (4).* (a) Corporation Q is an undiversified investment company. Q's only asset is $80,000 of corporation R stock. On January 1, 1977, Q acquires $20,000 of real estate as the first step of an overall plan to cease being an investment company. However, Q does not cease to be an investment company by reason of that acquisition. On January 1, 1978, as the second step of the plan, Q disposes of $1,000 of R stock and, thus, ceases being an investment company. On January 1, 1981, Q merges with R.

(b) The real estate is presumed acquired for an impermissible purpose. On these facts, the real estate is excluded and Q is treated as an undiversified investment company immediately prior to the merger.

*Example (5).* (a) Corporation S has been a diversified investment company for its entire corporate existence prior to 1982 (without regard to its initial period of incorporation). On January 15, 1982, S sells stock in two corporations in the ordinary course of conducting its activities of buying and selling in response to trends in the stock market. Assume the stock of those two corporations would not have been disregarded under this paragraph (j) at the time it was originally acquired because S was a diversified investment company at the time it acquired that stock. As a result of the sale, S becomes an undiversified investment company. On March 1, 1982, in the ordinary course of its investment activities S replaces the stock sold in January with stock in two different corporations. If the stock acquired on March 1, 1982, is not excluded, S again would be a diversified investment company. On January 1, 1984, S merges into corporation T.

(b) The 30-day grace period does not apply and the stock acquired on March 1, 1982, is presumed acquired for an impermissible purpose. However, the fact S acquired the stock as a replacement for similar assets that would not have been disregarded is clear and convincing evidence sufficient to overcome the presumption. In such a case, the stock acquired on March 1, 1982, would not be excluded in determining if S is a diversified investment company on January 1, 1984.

*Example (6).* Corporation U is an indiversified investment company and corporation W is a diversified investment company. On January 1, 1980, U sells its portfolio of investments for cash. On March 1, 1980, U purchases a diversified portfolio of investments for purposes of qualifying as a diversified investment company. U merges into W on January 1, 1981. The stock acquired on March 1, 1980, is excluded in determining if U is a diversified investment company. However, the stock acquired on that date is not excluded in determining if U is an investment company because U would cease to be an investment company as a result of the exclusion. U is considered an undiversified investment company because it is an investment company (taking into account the stock acquired on March 1, 1980) that is not a diversified investment company. See paragraph (c)(4) of this section.

*Example (7).* (a) Corporation X is an undiversified investment company that intends eventually to merge into a diversified investment company. In 1980, as part of a plan to attain a qualifying status for X, its sole shareholder A organizes corporation Y using cash. Y acquires a diversified portfolio of investments in its initial period of incorporation. In 1981, X merges into Y under the common ownership exception. After the merger, Y is still a diversified investment company (without applying paragraph (j) of this section). In 1982, Y merges into Z, a diversified investment company.

(b) The newly-formed corporation rule does not apply to Y because within the 10-year period preceding the 1982 merger into Z, Y was a party to a reorganization qualifying under section 368. Thus, assets acquired by Y during its initial period of incorporation to attain a qualifying status are presumed acquired for an impermissible purpose and on these facts those assets would be excluded. Since only X's assets remain, Y is an undiversified investment company in 1982.

*Example (8).* (a) The facts are the same as in example (7) except that instead of organizing new corporation Y, A acquires the stock of corporation Y, a diversified investment company, which has been in existence since 1950.

(b) X is treated as if it acquired Y's assets in the 1981 merger. Accordingly, Y's assets are excluded because they are considered to be acquired as part of a plan to attain a qualifying status for X. Y is an undiversified investment company in 1982.

(k) *Common ownership exception*—(1) *In general.* Under section 368(a)(2)(F)(v), section 368(a)(2)(F)(i) does not apply to a transaction involving two or more investment companies if the same persons own substantially all of the stock of each investment company in the same proportions.

(2) *Limitation.* In determining if the common ownership exception applies, stock acquired for the purpose of meeting the requirements of the exception is disregarded.

(3) *Examples.* The following examples illustrate this paragraph (k). Assume in each example that X and Y are investment companies and that Y acquires X's assets in a transaction described in section 368(a)(1)(C).

*Example (1).* A and B each own 50 percent of the fair market value of X's stock. A owns 52 percent and B owns 48 percent of the fair market value of Y's stock. The common ownership exception applies.

*Example (2).* A and B each own 50 percent of the fair market value of X's stock. A owns 60 percent and B owns 40 percent of the fair market value of Y's stock. The common ownership exception does not apply.

*Example (3).* A and B each own 48 percent of the fair market value of the stock of X and Y. C owns the remaining 4 percent of X, and D owns the remaining 4 percent of Y. The common ownership exception applies.

*Example (4).* A and B each own 40 percent of the fair market value of the stock of X and Y. C owns the remaining 20 percent of X's outstanding stock and D owns the remaining 20 percent of Y's outstanding stock. The common ownership exception does not apply.

*Example (5).* A owns 100 percent of the fair market value of X's stock and B owns 100 percent of the fair market value of Y's stock. With a view to merging X and Y, A acquires 50 percent of the fair market value of Y's

stock from B and B acquires 50 percent of the fair market value of X's stock from A. The common ownership exception does not apply because A acquired the 50 percent interest in Y and B acquired the 50 percent interest in X for the purpose of meeting that exception, and accordingly each acquired 50 percent interest is disregarded.

(l) *Certain collateral effects of denial of reorganization treatment.* (1) *In general.* This paragraph (*l*) and paragraph (n) of this section describe certain significant collateral effects of denial of reorganization treatment under section 368(a)(2)(F). These descriptions are not intended to be all-inclusive or definitive.

(2) *Certain effects at corporate level in asset acquisitions.* (i) An acquired company denied reorganization treatment under section 368(a)(2)(F)(i) for an asset acquisition is treated as having sold or exchanged its assets. The acquired company will recognize gain or loss under section 1001(c), except that either section 351 or 337 may apply. Unless section 362(a) applies, the acquiring company will have a cost basis for assets it acquires and its holding period in those assets will begin on the date of the transaction. Section 381 will not apply.

(ii) Section 337 will apply to the acquired company's sale or exchange of its property if the conditions of that section are met. If the acquired company is liquidated pursuant to a plan of reorganization, that plan will be considered a plan of liquidation for purposes of section 337.

(iii) For treatment under section 351, see § 1.351–1(c).

(3) *Certain effects on stock and security holders in asset acquisitions.* (i) In general, in the case of a liquidation of an acquired company that is denied reorganization treatment under section 368(a)(2)(F)(i) for an asset acquisition, the corporation's shareholders must treat the transaction as a distribution in liquidation under section 331 or 332. See, however, § 1.301–1(l) (relating to distributions that come within the terms of section 301 although they occur at the same time as another transaction). The shareholder's basis in the assets distributed is determined under section 334. The shareholders' holding period for assets distributed begins on the date of distribution unless section 1223 applies.

(ii) If such an acquired company's security holders receive property as a result of the transaction, the transaction will be treated as taxable by the security holders under sections 1001(c) and 1232(a). Basis and holding period in the property received by the acquired corporation's security holders are determined in accordance with this treatment.

(iii) If the acquired company does not distribute property, its stock and security holders recognize neither gain nor loss. The basis and holding period in their stock or securities is not affected.

(3) *Certain effects at corporate level in stock acquisition.* If an acquired company's shareholders are denied reorganization treatment under section 368(a)(2)(F)(i) for a stock acquisition, then—

(i) Unless section 362(a) applies, the acquiring company must treat the transaction as a purchase of stock for which it takes a cost basis and for which its holding period begins on the date of the transaction.

(ii) The acquired company does not recognize gain or loss on the transaction, and

(iii) The basis and holding period of the acquired corporation in its assets are not affected.

(4) *Certain effects at shareholders level in stock acquisition.* Shareholders denied reorganization treatment under section 368(a)(2)(F)(i) for a stock acquisition must treat the transaction as a sale or exchange. Unless section 351 applies, gain or loss must be recognized under section 1001(c).

(5) *Example.* The following example illustrates this paragraph (l).

*Example.* (a) On January 1, 1980, M, a diversified investment company, and N, an undiversified investment company, adopt a plan to combine in a statutory consolidation described in section 368(a)(1)(A). M and N are not commonly owned. Both M and N have outstanding debt. The consolidation occurs on June 1, 1980, and the new corporation is O.

(b) The general rule of section 368(a)(2)(F)(i) does not apply to M and its stock and security holders and they are entitled to reorganization treatment.

(c) Under the general rule of section 368(a)(2)(F)(i), N and its stock and security holders are denied reorganization treatment for the transaction. Assume section 351(d) applies to the transaction so that section 351(a) does not apply. Section 337 will apply to the transfer of assets by N if its conditions are met. N may recognize gain, however, under certain provisions such as sections 1245 and 1250. Section 331 will apply to the distribution of the O stock to the N shareholders. The N shareholders may have ordinary income under certain provisions such as section 1248. The N shareholders will determine their basis in the O stock under section 334. A distribution to the N security holders will be taxable under sections 1001(c) and 1232(a).

(d) Reorganization treatment for M requires that O take a carryover basis in M's assets under section 362(b) and carry over other tax attributes of M under section 381. O's holding period for M's assets includes M's holding period. Denial of reorganization treatment to N requires that O treat N's assets as if acquired in a sale or exchange. O takes a cost basis in N's assets and does not carry over any of N's items under section 381. O's holding period for N's assets begin on June 1, 1980.

(m) *Reverse acquisition rule*—(1) *Designation of parties.* For purposes of this paragraph (m) and paragraphs (n) and (o) of this section, the acquiring corporation is referred to as P, the subsidiary of the acquiring corporation that participates in the transaction is referred to as S, and the acquired corporation is referred to as T. For a special rule for transactions described in section 368(a)(2) (C) and (E), see paragraph (o)(4) of this section.

(2) *Asset acquisitions.* If an undiversified investment company acquired assets of another investment company, section 368(a)(2)(F)(vi) applies in the following way:

(i) For purposes of section 368(a)(2)(F), the transaction is treated as an acquisition of P's assets by T ("constructive acquisition") in exchange for T stock ("constructive exchange").

(ii) If section 368(a)(2)(F)(i) applies to this constructive acquisition and exchange, the general rule denies reorganization treatment to P and its stock and security holders for these constructive transactions. If T is an undiversified investment company, it and, it it makes distributions, its stock and security holders are denied reorganization treatment under the general rule of section 368(a)(2)(F)(i) (without applying this paragraph (m)).

(iii) The amount considered realized under section 1001 by P on the constructive acquisition of the assets it held immediately before the transaction is the fair market value of those assets immediately after the constructive acquisition. The amount considered realized under section 1001 by the P stock and security holders on the constructive exchange of the stock or securities they held in P immediately before the exchange is the fair market value of those stocks or securities immediately after the exchange.

(3) *Stock acquisitions.* If an undiversified investment company acquires the stock of another investment company in a transaction described in section 368(a)(1)(B), section 368(a)(2)(F)(vi) applies in the following way:

(i) For purposes of section 368(a)(2)(F), the transaction is treated as if the P shareholders had exchanged all their P stock for T stock ("constructive exchange").

(ii) If section 368(a)(2)(F)(i) applies to this constructive exchange, the general rule denies reorganization treatment to the P shareholders for this constuctive exchange. If T is an undiversified

investment company, the T shareholders are denied reorganization treatment under section 368(a)(2)(F)(i).

(iii) The amount considered realized under section 1001 by the P shareholders on the constructive exchange of the P stock they held immediately before the exchange is the fair market value of that stock immediately after the exchange.

(4) *Examples.* The following examples illustrate this paragraph (m).

*Example (1).* (a) P and T are undiversified investment companies. P acquires all of T's assets in a statutory merger described in section 368(a)(1)(A). Neither P nor T has any debt outstanding. Pursuant to the merger, former shareholders of T become shareholdes of P. Immediately after the merger, the fair market value of the P stock held by P shareholders, as a result of their ownership of that stock before the merger, is $100,000.

(b) Under the general rule of section 368(a)(2)(F)(i), reorganization treatment is denied to T and its shareholders because T is an undiversified investment company.

(c) Under section 368(a)(2)(F)(vi), the transaction is treated as a constructive acquisition of P's assets by T. The general rule of section 368(a)(2)(F)(i) denies reorganization treatment to P and its shareholders because P is an undiversified investment company. P realizes $100,000 on the contructive acquisition of its assets, and P's shareholders realize $100,000 on the constructive exchange of their stock.

*Example (2).* (a) P, an undiversified investment company, acquires all the stock of the T, a diversified investment company, in a transaction described in section 368(a)(1)(B). A was the sole shareholder of P prior to P's acquisition of T. Immediately after the constructive exchange, the fair market value of A's P stock is $100,000.

(b) For T's shareholders, the transaction is treated as a reoganization.

(c) For A, the transaction is treated under section 368(a)(2)(F)(vi) as a constructive exchange of all of A's P stock for T stock. Section 368(a)(2)(F)(i) applies to this constructive exchange and the general rule denies reorganization treatment to A. The amount realized by A is $100,000.

(n) *Certain collateral effects of reverse acquisition rule.* Certain significant collateral effects of denial of reorganization treatment under the reverse acquisition rule include the following:

(1) *Asset acquisition.* If reorganization treatment is denied for a constructive acquisition of assets under the reverse acquisition rule, the consequences of the transaction for P and its stock and security holders include the following—

(i) Unless section 351(a) would apply to the constructive acquisition, P is treated as having sold or exchanged its assets as part of a liqiudation to which section 337 may apply if the conditions of that section would be met if P's assets actually had been acquired. For this purpose, the date of adoption of the plan of reorganization will be treated as the date of adoption of the plan of liquidation. P's new basis in its assets will be the basis the assets would have in the hands of its shareholders under section 334 if the assets were distributed in a complete liquidation ("deemed liquidation"). P begins a new holding period in its assets on the date of the transaction, unless section 1223 applies. The deemed liquidation eliminates P's tax attributes described in section 381, unless section 334(b)(1) would apply to the deemed liquidation.

(ii) P's shareholders are treated as receiving a distribution of T stock in a complete liquidation of P. The new basis and holding period in their P stock will be the basis and holding period the T stock would have if the T stock were distributed to the P shareholders in complete liquidation of P.

(iii) P's security holders will be treated as receiving T securities in an exchange taxable under sections 1001(c) and 1232(a). The new basis and holding period in their securities are determined in accordance with that treatment.

(2) *Stock acquisitions.* If reorganization treatment is denied for a constructive exchange of stock under the reverse acquisition rule, the consequence of the transaction for P and its shareholders include the following:

(i) P does not have gain or loss and the basis and holding period in its assets remain unchanged.

(ii) Unless section 351 would apply to the constructive exchange, the P shareholders must recognize gain or loss under section 1001(c). The P shareholder's new basis in their P stock is the fair market value of that stock on the date of the constructive exchange, and the P stock will have a new holding period beginning on that date.

(3) and (4) [Reserved]

(5) *Examples.* The following examples illustrate this paragraph (n).

*Example (1).* (a) On January 1, 1979, P, an undiversified investment company, and T, a diversified investment company, adopt a plan to merge T into P in a transaction described in section 368(a)(1)(A). All P stock is held by individual A and all T stock is held by individual B. Individual C holds all of P's outstanding debt which has a fair market value of $25,000. P acquires T's assets on June 1, 1979. Under section 368(a)(2)(F)(vi), the transaction is treated as an acquisition of P's assets by T.

(b) Denial of reorganization treatment to P requires that P treat the transaction as a sale of its assets. If its requirements would be satisfied, section 337 applies to the sale. P's new basis for its assets (other than those acquired from T) is their fair market value. P begins a new holding period for those assets on the date of the constructive exchange. The transaction eliminates P's tax attributes under section 381.

(c) A is treated as receiving a liquidating distribution under section 331 on the date of the constructive exchange. The character of any gain is determined as if P actually had liquidated. C is treated as receiving $25,000 of T securities in a taxable exchange to which sections 1001(c) and 1232(a) applies.

(d) Since T is allowed reorganization treatment, T's attributes under section 381 carry over to P. P's basis in T's assets is determined under section 362(b). P's holding period for the T assets includes T's holding period for those assets.

*Example (2).* (a) P, an undiversified investment company, acquires the stock of T, a diversified investment company, in a transaction described in section 368(a)(1)(B). For P's shareholders, the transaction is treated under section 368(a)(2)(F)(vi) as a constructive exchange of P stock for T stock.

(b) Unless section 351 would apply, P's shareholders recognize gain or loss under section 1001(c) on the constructive exchange. The character of any gain is determined as if P actually had liquidated. Unless section 358 would apply, the basis in their P stock is adjusted to its fair market value and their P stock has a new holding period beginning on the date of the transaction.

(c) Neither T nor its shareholders recognize gain or loss because for them the transaction is treated as a reorganization.

(o) *Triangular transactions*—(1) *Parties to the transaction.* In determining whether two or more parties to the transaction are investment companies with respect to transactions otherwise described in section 368(a)(1)(B) or (C) or section 368(a)(2) (D) or (E) ("triangular transactions"), P and S will be considered a single party to the transaction if both of them are investment companies and under section 368(b) P and S (without applying section 368(a)(2)(F)) each would be a party to a reorganization. Thus, if T is not an investment company in a transaction involving only P, S, and T, section 368(a)(2)(F)(i) does not apply to the transaction because only one investment company is a party to the transaction. For a special rule for transactions described in section 368(a)(2) (C) and (E), see paragraph (o)(4) of this section.

(2) *Application of general rule.* Section 368(a)(2)(F)(i) and the general rule of paragraph (b)(2) of this section may apply with respect to T in a triangular transaction involving only P, S, and T, but only if P is an investment company. Section 368(a)(2)(F)(i) will not apply to T or its shareholders if P is an operating company because T's shareholders become shareholders in an operating company.

(3) *Application of reverse acquisition rule.* For purposes of applying section 368(a)(2)(F)(vi) to a triangular transaction involving two or more parties (as determined under paragraph

(o)(1) of this section) that are investment companies—

(i) If P is an investment company (whether or not S is an investment company), P will be considered as acquiring T's assets, or

(ii) If P is not an investment company, S will be considered as acquiring T's assets.

(4) *Special rules for drop-downs and reverse triangular mergers.* (i) For purposes of this paragraph (o), a transaction described in section 368(a)(2)(E) (reverse triangular merger) is treated in the same manner as a transaction described in section 368(a)(2)(D). Thus, the surviving corporation is designated T, the merged corporation is designated S, and the parent of the merged corporation is designated P.

(ii) For purposes of this section, a transaction described in section 368(a)(2)(C) is not considered a triangular transaction. P is considered the acquiring party to which section 368(a)(2)(F)(vi) applies and T is considered the acquired party to which section 368(a)(2)(F)(i) applies.

(5) *Examples.* The following examples illustrate this paragraph (o).

*Example (1).* P and its wholly owned subsidiary S are undiversified investment companies. On January 1, 1980, S acquires the assets of T, which is not an investment company, in a transaction described in section 368(a)(2)(D). P and S are considered a single party for purposes of determining if two or more parties to the transaction are investment companies. The transaction is not within the scope of section 368(a)(2)(F) because there is only one investment company that is a party to the transaction.

*Example (2).* In 1978, P, an undiversified investment company, organizes S as a wholly-owned subsidiary using a small amount of cash. Thus, S is not an investment company. In that same year, S acquires substantially all of the assets of T, an undiversified investment company, in exchange for P stock in a transaction described in section 368(a)(2)(D). The transaction is within the scope of section 368(a)(2)(F) because two parties to the transaction (*i.e.*, P and T) are investment companies. P is considered the acquiring company to which section 368(a)(2)(F)(vi) applies and T is considered the acquired party to which section 368(a)(2)(F)(i) applies.

*Example (3).* The facts are the same as in example (2) except both P and S are undiversified investment companies. The results are the same as in example (2).

*Example (4).* P is engaged in manufacturing and is not an investment company. P's wholly owned subsidiary S has been an undiversified investment company for several years. On January 1, 1980, S acquires the assets of T, which is an undiversified investment company, in a transaction described in section 368(a)(2)(D). The transaction is within the scope of section 368(a)(2)(F) because two parties to the transaction (*i.e.*, S and T) are investment companies. S and not P is considered the acquiring party for purposes of section 368(a)(2)(F)(vi). Even though two or more parties to the transaction are investment companies, section 368(a)(2)(F)(i) does not apply with respect to T. However, by virtue of section 368(a)(2)(F)(vi), section 368(a)(2)(F)(i) applies to S.

*Example (5).* The facts are the same as in example (4), except S merges into T in a transaction described in section 368(a)(2)(E). The results are the same as in example (4).

*Example (6).* P and T are undiversified investment companies and S is a diversified investment company. T acquires all of the assets of S in a transaction described in section 368(a)(2)(E). The transaction is within the scope of section 368(a)(2)(F) because at least two parties to the transaction are investment companies. T and its stock and security holders are denied reorganization treatment under the general rule of section 368(a)(2)(F)(i). P is treated as the acquiring party and is denied reorganization treatment under section 368(a)(2)(F)(v).

*Example (7).* The facts are the same as in example (6) except S is an undiversified investment company. The results are the same as in example (6).

**William E. Williams,**

*Acting Commissioner.*

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## 26 CFR Part 1

## Energy Property; Proposed Rulemaking

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to authority of the Secretary of the Treasury to add items to the category of specially defined energy property. Changes to the applicable tax law were made by the Energy Tax Act of 1978 and the Crude Oil Windfall Profit Tax Act of 1980.

**DATES:** Written comments and request for a public hearing must be delivered or mailed by March 9, 1981. This amendment is proposed to be effective on the date on which the regulations proposed by this notice of proposed rulemaking are published in the **Federal Register** as a Treasury decision.

**ADDRESS:** Send comments and request for a public to: Commissioner of Internal Revenue, Attn: CC:LR:T, Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Mary Frances Pearson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224 (Attn: CC:LR:T) (202-566-3458).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 48 of the Internal Revenue Code of 1954. This amendment is proposed to conform the regulations to changes made by section 301(b) of the Energy Tax Act of 1978 (Pub. L. 95-618, 92 Stat. 3197) and by section 222(d) of the Crude Oil Windfall Profit Tax Act of 1980. (Pub. L. 92-223, 94 Stat. 262). The proposed amendment is made to the notice of proposed rulemaking in the **Federal Register** for September 19, 1980 (45 FR 184). The proposed regulations are to be issued under the authority contained in Code sections 7805 (68A Stat. 917, 26 U.S.C. 7805), 38(b) (76 Stat. 962, 26 U.S.C. 38), and 48(l)(5) (94 Stat. 262, 26 U.S.C. 48).

### Explanation of Provisions

The Crude Oil Windfall Profit Tax Act retains the Secretary's discretionary authority given under the Energy Tax Act of 1978 to add items to the category of specially defined energy property, but establishes criteria for the exercise of the authority in evaluating whether items should be added to the list of qualified equipment. The proposed regulations set forth the procedure for taxpayers to request addition of an item, criteria for the Secretary to apply in exercising discretion, and the procedure for publishing the list of items.

Under section 48(l)(5)(M), additions to the list of specially defined energy property must meet the requirements of section 44C(c)(9) (relating to the residential energy credit). Therefore, the proposed regulations, in general, would adopt by cross-reference the procedure and criteria in the proposed residential energy credit regulations. *See* proposed § 1.44C-6 as published in the **Federal Register** for October 15, 1980 (45 FR 6839901).

Proposed § 1.44C-6(a) outlines the procedure to be followed by a manufacturer of an item seeking approval for addition to the list. The manufacturer is to send its application to the Commissioner of Internal Revenue, Attention: Assistant Commissioner (Technical) T:C:E, Washington, D.C. 20224.

Subparagraph (b) of proposed § 1.44C-6 contains information required to be furnished by the manufacturer in its application. Information to be furnished includes such items as the following:

Technical specification of the item; estimate of additional units that would be sold industry-wide as a result of the addition of the item; capacity of industry to increase production to meet increases in demand; test data and experience data to substantiate for each recommended use the energy savings in Btu's that are claimed will be achieved by a unit during a period of one year; and data to show that the item will result in a significant reduction of oil or natural gas consumption. Additional requirements for the manufacturer's application in the case of specially defined energy property are that the item be designed for use in an existing industrial or commercial process and that the amount of energy consumed in that process will be reduced.

Proposed § 1.44C–6(d) sets forth the list of criteria to be followed by the Secretary when determining additions to the list of specially defined energy property under section 48(l)(5)(M). In addition, proposed § 1.48–9 requires for specially defined energy property that the item be similar in function to the items listed in section 48(l)(5) and that the principal purpose of the item is reduction in the amount of energy consumed or heat wasted in any existing industrial or commercial process.

If an item is added to the list under 48(l)(5)(M), it must meet the requirements of § 1.48–9(f)(2).

Therefore, even if an item is added to the list, it must still be used in an existing commercial or industrial facility as part of its process before it will receive an energy credit.

### Comments and Request for a Public Hearing

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

### Drafting Information

The principal author of this proposed regulations is Mary Frances Pearson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

*Proposed Amendment to the Regulations.*

The proposed amendment to 26 CFR Part 1 is as follows:

Proposed § 1.48–9, as set forth in the Notice of Proposed Rulemaking in the **Federal Register** for September 19, 1980 (45 FR 62496), is amended by revising paragraph (f)(15). These revised and added provisions read as follows:

**§ 1.48–9 Definition of energy property**

* * * * *

(f) *Specially defined energy property*

* * *

(15) *Other property added by the Secretary.* (i) This subparagraph (15) sets forth the criteria and procedure under section 48(l)(5) for the Secretary to use when adding items to the list of items that may qualify as specially defined energy property and for setting forth information required in a manufacturer's request. For purposes of this subparagraph (15), the purchaser of the item will be deemed to be the manufacturer if an item is specially designed (within the meaning of section 46(a)(2)(C)(iii)(II) without reference to any other terms therein). The criteria and procedure for this list are the criteria and procedure for energy-conserving components or renewable energy sources set forth in § 1.44C–6 (a), (b), and (d), applied in the manner prescribed in this subparagraph (15).

(ii) All references to renewable energy sources and energy-conserving components, set forth in § 1.44C–6 (a), (b), and (d) are to be disregarded. Instead, the provisions are to be read only with reference to specially defined energy property.

(iii) In applying § 1.44C–6(a)(2), the reference to consultation with the Secretary of Housing and Urban Development does not apply.

(iv) Instead of the material required by § 1.44C–6(b) (12) and (13), the application to the Commissioner shall include the following information:

(A) Whether the item is designed for use in an existing industrial or commercial process, and

(B) Test data which establishes that the use of the item will reduce the amount of energy consumed in any existing industrial or commercial process.

(v) The following additional criteria are added at the end of § 1.44C–6(d)(1), in determining additions to the list of specially defined energy property under section 48(l)(5)(M):

(A) The item is similar in function to the items specifically listed in section 48(l)(5), and

(B) The principal purpose of the item is the reduction in the amount of energy consumed or heat wasted in any existing industrial or commercial process.

(vi) In applying § 1.44C–6(e), the reference to performance and quality standards provided under § 1.44C–4 does not apply.

(vii) An item added to the list under this subparagraph (15) does not qualify as specially defined energy property unless it meets the requirements set forth in § 1.48–9(f)(2).

**William E. Williams,**

*Acting Commissioner of Internal Revenue.*

[FR Doc. 80-40840 Filed 12-30-80; 4:00 pm]

BILLING CODE 4830-01-M

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**26 CFR Part 51**

**[LR–64–80]**

## Net Income Limitation on Windfall Profit

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to the net income limitation on windfall profit under the Crude Oil Windfall Profit Tax Act of 1980. The regulations would provide the public with the guidance needed to comply with that Act.

**DATES:** Written comments and requests for a public hearing must be delivered or mailed by March 9, 1981. The regulations are proposed to be effective for periods after February 29, 1980.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–64–80), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Donald W. Stevenson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LT:T) (202–566–3297).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains amendments to the proposed Excise Tax Regulations (26 CFR Part 51) under section 4988(b) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 101(a) of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 230) and are to be issued under the authority contained in

sections 4997(b) and 7805 of the Internal Revenue Code of 1954 (94 Stat. 250 and 68A Stat. 917; 26 U.S.C. 4997(b) and 7805).

**Explanation of Provisions**

The windfall profit tax is imposed upon the windfall profit from domestically produced taxable crude oil removed from the premises during each taxable period. The windfall profit on any barrel of taxable crude oil is the excess of the removal price over the adjusted base price plus a severance tax adjustment. However, the windfall profit on any barrel is limited to 90 percent of the net income attributable to that barrel. Net income attributable to each barrel of taxable crude oil is computed by dividing the taxable income attributable to taxable crude oil by the number of barrels of taxable crude oil from the property taken into account for the taxable year.

For purposes of determining the net income limitation, taxable income is computed in a manner similar to that used for computing percentage depletion under section 613(a) of the Code except that no deduction is allowed for depletion, windfall profit tax, section 263(c) costs, or qualified tertiary injectant expenses to which an election under section 4988(b)(3)(E) applies. Taxable income is reduced by the cost depletion deduction which would have been allowable for the taxable year if all section 263(c) costs and qualified tertiary injectant expenses, to which an election under secton 4988(b)(3)(E) of the Code applies, incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and if cost depletion had been used by the taxpayer with respect to the property for all taxable years.

The proposed notice requires, pursuant to section 4988(b)(1), that the net income limitation be applied to the windfall profit on each barrel of taxable crude oil. This barrel-by-barrel application complicates the administration of the tax in many cases (e.g., where a property produces several tiers of oil and the windfall profit varies often during the year because of changes in the adjusted base prices and removal prices).

Section 51.4988–2(b)(1) (i) and (ii) of the proposed notice requires generally that income and expenses attributable to a barrel of taxable crude oil be taken into account for the taxable year in which the barrel is removed from the premises. Thus, where the oil is removed from the premises in one taxable year and income or expenses arise with respect to that oil in the preceding or following taxable year, the proposed notice would take the income or expenses into acount for net income limitation purposes, for the year of removal (unless they arise more than 2 months after the close of the taxable year of removal).

The reference in section 4988(b)(3)(C)(ii) to "all taxable periods" is given the meaning of "all taxable years" in the proposed notice. Hence, the proposed notice allows the taxpayer to take into account in computing the cost depletion deduction section 263(c) costs attributable to taxable crude oil incurred since the taxable year the taxpayer acquired the interest in the property rather than merely from March 1, 1980.

In the case of a transfer of an interest in any proven oil or gas property (within the meaning of section 613A(c)(9)(A) after 1978 the transferee, in computing the hypothetical cost depletion deduction with respect to the transferred interest for net income limitation purposes, may take into account only amounts which would have been allowable with respect to the transferor and costs incurred by the transferee during periods after the transfer.

Section 4988(b)(3) provides special rules for computing taxable income from the property. For this purpose, intangible drilling and development costs that relate to nonproductive oil wells are treated as entirely deductible currently while such expenses that relate to a productive taxable crude oil well are deductible only through the cost depletion allowance. Proposed § 51.4988–2(b)(4)(iii) provides that where at year-end it cannot be determined whether the well being drilled will be a gas or oil well or whether it will be a productive or nonproductive well, the taxpayer must treat the well as a gas well or a productive well. If the well later proves to be an oil instead of a gas well, or nonproductive rather than productive, the taxpayer may amend his return or file a claim for refund.

For purposes of determining the net income limitation, if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from that portion is included in the gross income from the property of both the person holding the production payment and the person holding the interest from which the production payment was created.

**Comments and Requests for a Hearing**

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

**Drafting Information**

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

The burdens that would be imposed by the proposed regulations flow directly from the statute. The approach chosen in the proposed regulation is consistent with accepted income tax principles. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

*Proposed Amendments to the Regulations*

The proposed amendments to 26 CFR Part 51 are as follows:

**Paragraph 1.** Section 51.4988–1 is amended by revising the portion of paragraph (a) that follows subparagraph (2) to read as follows:

**§ 51.4988–1 Windfall profit; removal price.**

(a) *Windfall profit.* * * *

(2) * * *

However, the amount of windfall profit is subject to the net income limitation set forth in § 51.4988–2.

* * * * * *

**Par. 2.** There is inserted immediately after § 51.4988–1 the following new § 51.4988–2.

**§ 51.4988–2 Net income limitation on windfall profit.**

(a) *In general.* The windfall profit on any barrel of crude oil shall not exceed 90 percent of the net income attributable to that barrel.

(b) *Calculation of net income limitation*—(1) *In general.* The net income limitation with respect to a barrel shall be computed in the following manner.

(i) Determine the taxpayer's gross income from the property (from which the barrel was produced), pursuant to paragraph (b)(2) of this section, that is attributable to taxable crude oil

removed from the premises during the taxable year (or during a previous taxable year, if the gross income therefrom was received or accrued during the current taxable year more than 2 months after the close of the taxable year of removal):

(ii) Determine the taxpayer's taxable income from the property for the taxable year by reducing the gross income from the property determined under subdivision (i) by all amounts—

(A) That would be subtracted in determining taxable income from the property under section 613(a) (except depletion, windfall profit tax, section 263(c) costs, and qualified tertiary injectant expenses to which an election under section 4988(b)(3)(E) applies),

(B) That are paid or incurred before the end of the period ending 2 months after the close of the taxable year, and

(C) That are attributable to the production of taxable crude oil removed from the permises during the taxable year (or during a previous taxable year, if the amounts were paid or incurred during the current taxable year more than 2 months after the close of the taxable year of removal),

and by the cost depletion deduction (described in paragraph (b)(4)) allowable for the taxable year.

(iii) Determine the taxpayer's net income attributable to each barrel of taxable crude oil removed during the taxable year by dividing the taxable income from the property determined under subdivision (ii) by the number of barrels in the taxpayer's share of taxable crude oil removed from the premises of that property during the taxable year.

(iv) Determine the net income limitation per barrel by multiplying the net income attributable to a barrel by 90 percent and rounding to the nearest cent.

(2) *Gross income from the property.* For purposes of this section, gross income from the property for any taxable year includes the income received or accrued before the end of the period ending 2 months after the close of the taxable year from all barrels of taxable crude oil described in paragraph (b)(1)(i). Gross income from the property shall not include income attributable to gas or exempt oil production. If the taxpayer has multiple depletable properties under section 614 of the Code in a single property as defined by the energy regulations, the taxpayer must compute the gross income (and net income limitation) separately for each depletable property.

(3) *Attribution of expenses to gas or exempt oil.* In the case where both taxable crude oil and gas or exempt oil is produced from the property, the amount of the expenditures attributable to the production of gas or exempt oil is computed by multiplying the aggregate expenses incurred with respect to the property (as determined under paragraph (b)(1)(ii)) by a fraction the numerator of which is the amount of the gross income from the property that is attributable to gas or exempt oil and the denominator of which is the total gross income from the property.

(4) *Taxable income from the property reduced by cost depletion.* (i) Taxable income from the property shall be reduced by the cost depletion deduction that would have been allowable for the taxable year with respect to the property if for all taxable years—

(A) All—

(*1*) Section 263(c) costs, and

(*2*) Qualified tertiary injectant expenses to which an election under section 4988(b)(3)(E) applies, incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

(B) Cost depletion had been used by the taxpayer with respect to the property.

(ii) The cost depletion deduction that would be allowable for the taxable year is computed by first determining the depletable basis of the oil property as of the date the taxpayer acquired an economic interest in the property. With regard to transfers of oil properties before 1979, the taxpayer's original basis in the property is determined under section 1012. The basis of proven oil or gas properties transferred after 1978 is determined under paragraph (c) of this section. A unit cost per barrel is then found by dividing the depletable basis by the estimated recoverable reserves determined for the year of acquisition for income tax purposes (whether or not the estimate later proves to be inaccurate). Adjustments to basis are then made for expenditures properly chargeable to capital account, section 263(c) costs, and qualified tertiary injectant expenses, to which an election under section 4988(b)(3)(E) applies, incurred during the year.

A cost depletion allowance is determined for the taxable crude oil removed during that year and is subtracted from the depletable basis. The depletable basis minus the cost depletion allowance for that year is carried over to the next taxable year and the same computation is performed for each succeding year until the current year.

(iii) For purposes of computing the net income limitation, intangible drilling and development costs with respect to a nonproductive well shall be deducted from gross income from the property in the taxable year these costs are paid or incurred. However, section 263(c) costs with respect to a productive well may be deducted only as a part of the cost depletion deduction. If the taxpayer is unable to determine with reasonable certainty by the later of the end of the taxable year or the time the return is filed whether a well will be productive or nonproductive, the taxpayer shall treat the well as a productive well. Similarly, if the taxpayer is unable to determine with reasonable certainty by the later of the end of the taxable year or the time the return is filed whether a well will be an oil well or gas well, the taxpayer shall treat the well as gas well. If the well later proves to be an oil well (or a nonproductive well), the taxpayer may file an amended return or a claim for credit or refund.

(iv) The taxpayer must substantiate each element of the cost depletion computation by adequate records or other documentary evidence corroborating the taxpayer's own statements. However, where the taxpayer establishes that the failure to produce adequate records is not due to the taxpayer's negligent or willful action or omission, an element of a cost depletion deduction shall be deemed substantiated if the best evidence available clearly supports it.

(5) The following examples illustrate the principles set forth in this paragraph:

*Example (1).* In 1978 a, the owner of Blackacre, leased the oil and gas rights in Blackacre to B who operates the oil lease. In 1981 B receives $1,280,000 as payment for taxable crude oil removed form Blackacre. Of this amount $500,000 was received in January and February 1981 for oil removed from the premises during November and December 1980. B also received an additional $420,000 in January 1982 as payment for oil removed during 1981. The gross income from the property for 1981 for net income limitation purposes (before allocation to the economic interest holders) is $1,200,000 ($1,280,000 − $500,000 + $420,000).

*Example (2).* Assume the same facts as in example (1). Assume further that the production costs incurred with respect to the taxable crude oil removed during 1981 totalled $400,000, including $80,000 which was paid in January and February 1982; that A retained a ⅛ royalty interest in Blackacre; that after acquiring the lease B granted C a ⅓ overriding royalty interest in his remaining ⅞ revenue interest and D a 50 percent operating interest and 50 percent of the remaining ⅔ revenue interest; and that 40,000 barrels of taxable crude oil are removed from the property during 1981. The number of barrels produced during the year, gross income, and production expenses are allocated among the economic interest holders in the following manner:

| Interest holder | Barrels of taxable crude oil allocated to interest holder | Gross income | Production expenses |
|---|---|---|---|
| A | 5,000 | $150,000 | |
| B | 15,000 | 450,000 | $200,000 |
| C | 5,000 | 150,000 | |
| D | 15,000 | 450,000 | 200,000 |
| Total | 40,000 | 1,200,000 | 400,000 |

*Example (3).* Assume the same facts as in example (2). Further assume that the cost of B's remaining 50 percent working interest in Blackacre in 1978 was $200,000 and that production began in January 1979. B's hypothetical cost depletion deduction for 1981 or net income limitation purposes is $80,000, determined as follows:

| B's allocated share | 1979 | 1980 | 1981 |
|---|---|---|---|
| Estimated recoverable reserves at beginning of tax year | 100,000 | 90,000 | 80,000 |
| Barrels removed during taxable year | 10,000 | 10,000 | 15,000 |
| Depletable basis, beginning of period | $200,000 | $225,000 | $240,000 |
| + IDC incurred during taxable year | $50,000 | $15,000 | $50,000 |
| + Tertiary injectant expenses incurred during taxable year | 0 | $30,000 | $30,000 |
| Adjusted depletable basis | $250,000 | $270,000 | $320,000 |
| − Depletion for taxable year | 25,000 | 30,000 | 60,000 |
| Depletable basis end of period | $225,000 | $240,000 | |

*Example (4).* Assume the same facts as in example (3). B computes the net income limitation (NIL) for 1981 in the following manner.

| | |
|---|---|
| Gross income from property | $450,000 |
| Production expenses | −$200,000 |
| Cost depletion deduction | −$60,000 |
| Taxable income from property | $190,000 |
| Barrels of taxable crude oil | 15,000 |
| Net income attributable to a barrel | $12.6667 |
| Net income limitation per barrel (rounded to the nearest cent) | $11.40 |

*Example (5).* Assume the same facts as in example (4). The following table illustrates the refund to which B is entitled at the end of the year, based on further assumptions concerning tax tier and rates, windfall profit, and withholding.

| Tier and barrels removed | Windfall profit per barrel without net income limitation | Tax rate | Tax withheld per barrel | Windfall profit per barrel with net income limitation | Actual tax per barrel | Refund due per barrel |
|---|---|---|---|---|---|---|
| 1—1,000 | $23.00 | $0.7 | $16.10 | $11.40 | $7.98 | $8.12 |
| 1—2,000 | (5.00) | .7 | 0 | (5.00) | 0 | 0 |
| 1—1,000 | 2.00 | .7 | 1.40 | 2.00 | 1.40 | 0 |
| 2—3,000 | 20.00 | .6 | 12.00 | 11.40 | 6.84 | 5.16 |
| 3—6,000 | 18.00 | .3 | 5.40 | 11.40 | 3.42 | 1.98 |
| 3—2,000 | 19.00 | .3 | 5.70 | 11.40 | 3.42 | 2.28 |

B is due a refund of $40,040 (1,000 barrels × $8.12 + 3,000 barrels × $5.16 + 6,000 barrels × $1.98 + 2,000 barrels × $2.28).

(c) *Special Rules*—(1) *Applying the cost depletion deduction to transfers of proven oil or gas properties.* In the case of a transfer of an interest in any proven oil or gas property (within the meaning of section 613A(c)(9)(A)) after 1978 which (but for section 4988(b)(4)(A)) would result in an increase in the amount determined under section 4988(b)(3)(C), the latter section shall be applied with respect to the transferee by taking into account only amounts which would have been allowable with respect to the transferor under that section and costs incurred by the transferee during periods after the transfer. For purposes of this paragraph, the term "transfer" means any change in legal or equitable ownership by sale, exchange, gift, bequest, devise, lease, sublease, assignment, contract, or other disposition (including creation of a production payment that gives the transferee an economic interest in the property, a distribution by an estate, and any contribution to or any distribution by a corporation, partnership, or trust).

*Example.* E acquires F's 50 percent working interest in a producing oil lease on Blackacre for $400,000 on January 1, 1982. F's depletable basis in the property as of the end of 1981 (after taking the hypothetical cost depletion) was $260,000. E's basis in his interest in the oil property, for purposes of the determination of cost depletion under section 4988(b)(3)(C), is $260,000. E may add to his basis any section 263(c) costs and qualified tertiary injectant expenses E incurs with respect to the lease after its acquisition.

(2) *Rule applicable to production payments.* For purposes of determining the net income limitation, if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from the portion shall be included in the gross income from the property of both the person holding the production payment and the person holding the interest from which the production payment was created.

(3) *Rule applicable to partnerships.* In the case of a partnership, the net income limitation shall be computed separately for each partner.

(4) *Computation of the net income limitation for the taxable year that includes March 1, 1980.* To determine the net income limitation for the period beginning March 1, 1980, and ending at the end of the taxpayer's taxable year that includes that date, the taxpayer shall take into account only barrels of taxable crude oil removed from the premises during this period and the income from and production costs incurred with respect to those barrels.

(5) *Election to capitalize qualified tertiary injectant expenses*—(i) *General.* With respect to any property, any taxpayer may elect to capitalize qualified tertiary injectant expenses for purposes of the determination of taxable income from the property under paragraph (b)(1)(ii) of this section. The election is irrevocable and shall apply to all qualified tertiary injectant expenses allocable to the property for which the election is made for the taxable year for which the election is made and for all subsequent taxable years. If the taxpayer elects not to capitalize these expenses, the taxpayer may deduct these expenses from gross income but may not take these expenses into account in determining the cost depletion deduction.

(ii) *Time and manner of making election.* An election to capitalize qualified tertiary injectant expenses shall be made by a statement to that effect on the producer's return of windfall profit tax, or claim for credit or refund of overpayment of windfall profit tax, for the first taxable year for which the election is to be effective.

(d) *Definitions.*—(1) Except where otherwise indicated in paragraph (b)(2), the term "property" when used in this section has the same meaning as that term is given in section 614 of the Code and regulations thereunder. Any election made by the taxpayer under section 614 and regulations thereunder for depletion purposes is binding in determining the definition of property for purposes of the net income limitation.

(2) The term "section 263(c) costs" means intangible drilling and development costs incurred by the

taxpayer which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of the Internal Revenue Code of 1954 (other than section 4988 (b)(3)). Such term shall not include costs incurred in drilling a nonproductive well.

(3) The term "qualified tertiary injectant expenses" means any expenses that are deductible under section 193 of the Code.

**William E. Williams,**

*Acting Commissioner of Internal Revenue.*

[FR Doc. 80-40839 Filed 12-30-80; 4:00 pm]

BILLING CODE 4830-01-M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### 36 CFR Part 261, 262

### Prohibitions and Rewards and Impoundments

**AGENCY:** Forest Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes amendments to regulations for National Forest System lands relating to prohibited acts, rewards and impoundments. The amendments are intended to clarify and strenghten the existing regulations. The need for the changes was determined in a review generated by the EO 12044 requirement that regulations be periodically reviewed for clarity and currency.

**DATE:** Comments must be received on or before March 9, 1981.

**ADDRESSES:** R. Max Peterson, Chief (6500), USDA Forest Service, 701 RP-E, P.O. Box 2417, Washington, D.C. 20013

**FOR FURTHER INFORMATION CONTACT:** Ernie Andersen, Fiscal and Accounting Management Staff, USDA Forest Service, P.O. Box 2417, Washington, D.C. 20013, (703) 235-8484.

All written submissions made pursuant to this notice will be available for public inspection in Room 701, Rosslyn Plaza-E, 1621 North Kent Street, Arlington, Virginia 22209, during normal business hours between 9 a.m. and 4 p.m. Monday through Friday (7 CFR 1.27(b)).

**SUPPLEMENTARY INFORMATION:** The authority to issue regulations affecting National Forest lands is contained in the Organic Administration Act of 1897. Under the provisions of this law, the Secretary of Agriculture is authorized to make rules and regulations to preserve the National Forests and to regulate their occupancy and use.

The existing regulations in Parts 261 and 262 were published in 1977 and have been amended only slightly since that time. In 1978, the Regional law enforcement officers met to propose changes to these regulations. These proposal were submitted to Regional Foresters, Area Directors, and subject-staff specialists. The following proposed rule is a result of the effort of these officials.

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044 and has been classified as not significant. For the reasons set out in the preamble, it is proposed to amend Chapter II of Title 36 as follows:

## PART 22—PROHIBITIONS

1. The authority citation for Part 261 is revised to read as follows:

**Authority:** 30 Stat. 35 as amended (16 USC 551); Sec. 1, 33 Stat. 628 (16 USC 472); 50 Stat. 526 as amended (7 USC 1011(f)); 82 Stat. 916 (16 USC 1281(d)); 82 Stat. 922 (16 USC 1246(i)), unless otherwise noted.

### Subpart A—General Prohibitions

2. In § 261.1, paragraph (b) is revised and (c) is added to read as follows:

**§ 261.1 Scope.**

* * * * *

(b) Nothing in this part shall preclude action in Wilderness or Primitive Areas as authorized in § 252.15 or Part 293.

(c) Nothing in the part shall preclude action within the National Forest System as authorized in Part 252.

3. By amending § 261.2 by revising and adding various definitions to read as follows:

**§ 261.2 Definitions.**

The following definitions apply to this part:

"Animal" means any dog, cat, horse, cow, bird, fish or any animate being which is endowed with the power of voluntary motion, not being human. Any of a kingdom of living beings excluding man and plants.

"Archaeological resource" means any material remains of past human life or activities which are of archaeological interest and are at least 100 years of age and the physical site, location, or context in which they are found.

"Campfire" * * *

"Camping" * * *

"Camping Equipment" means the personal property used in or suitable for camping, and includes any vehicle used for transportation and all equipment in possession of a person camping.

"Damaging" means to injure, multilate, deface, destroy, cut, chop, girdle, dig, excavate, kill or in any way harm or disturb.

"Developed recreation site" * * *

"Forest development road" * * *

"Forest officer" * * *

"Motorized equipment" means any machine activated by a nonliving power source except small battery-powered, handcarried devices such as flashlights, shavers, Geiger counters, and cameras.

"Mechanical transport" means any device which travels over ground, snow or water, on wheels, tracks, skids, or by flotation and which is propelled by a nonliving power supply contained or carried on or within the device.

"Motor vehicle" means any vehicle which is self-propelled or any vehicle which is propelled by electric power obtained from batteries, but not operated on rails.

"National Forest System" means all National Forest lands and waters reserved or withdrawn from the public domain of the United States, National Forest lands and waters acquired through purchase, exchange, donation, or other means, National Grasslands and land utilization projects and waters administered under Title III of the Bankhead-Jones Tenant Act (50 Stat. 525, 7 USC 1010-1012), and other lands, waters, or interest therein acquired under the Wild and Scenic River Act (16 USC 1271-1287) or National Trails System Act (16 USC 1241-1249), and other lands and waters over which the Forest Service has administrative responsibility.

"National Forest Wilderness" * * *

"Person" * * *

"Permission" * * *

"Permit" * * *

"Primitive areas" * * *

"Publicly nude" * * *

"State" * * *

"State law" * * *

"Stove fire" * * *

"Unauthorized livestock" * * *

"Vehicle" means any device in, upon, or by which any person or property is or may be transported, including any frame, chassis, or body of any motor vehicle, except devices used exclusively upon stationary rails or tracks.

"Wild free-roaming horses and burros" * * *

4. By revising the heading of § 261.3, designating the existing paragraph as (a) and adding a paragraph (b) to read as follows:

**§ 261.3 Interfering with or giving false report to a forest officer.**

The following are prohibited:

(a) * * *

(b) The giving of any false or fictitious report or other information to any forest officer engaged in the investigation of a violation of law or regulation.

5. By revising § 261.4(c) to read as follows:

**§ 261.4 Disorderly conduct.**

The following are prohibited:

* * * * *

(c) Causing public inconvenience, annoyance or alarm by making unreasonable noise, offensively coarse utterance, gesture, or abusive language to any person.

6. In § 261.5, by revising paragraph (a) to read as follows:

**§ 261.5 Fire.**

The following are prohibited:

(a) Carelessly or negligently throwing or placing any ignited substance or other substance that may cause a fire.

* * * * *

7. In § 261.6, by revising paragraph (a) and by adding paragraph (h) to read as follows:

**§ 261.6 Timber and other forest products.**

The following are prohibited:

(a) Cutting or otherwise damaging any timber, tree or other forest product, except as authorized by permit, timber sale contract, Federal law or regulation.

* * * * *

(h) Removing any timber, tree, or other forest product, except as authorized by permit, timber sale contract, Federal law or regulation.

8. By revising the first paragraph of § 261.8 to read as follows:

**§ 261.8 Fish and wildlife.**

The following are prohibited to the extent Federal or State law is violated:

9. By revising § 261.9 to read as follows:

**§ 261.9 Property.**

The following are prohibited:

(a) Damaging any natural feature or other property of the United States.

(b) Removing any natural feature or other property of the United States.

(c) Damaging any plant that is classified as a threatened, endangered, sensitive, rare, or unique species.

(d) Removing any plant that is classified as a threatened, endangered, sensitive, rare, or unique species.

(e) Entering any building, structure, or enclosed area owned or controlled by the United States when such building, structure, or enclosed area is not open to the public.

(f) Using any herbicide, pesticide or fungicide except for personal use for medical purposes or as an insect repellant or with permission for other minor uses.

(g) Digging in, excavating, disturbing, injuring or destroying any archaeological resource.

(h) Removing any archaeological resource.

10. In § 261.10 by revising paragraphs (c), (d), and (e) to read as follows:

**§ 261.10 Occupancy and use.**

The following are prohibited:

* * * * *

(c) Selling or offering for sale any merchandise, conducting any kind of work activity or service unless authorized by Federal law, regulation, or permit.

(d) Discharging a firearm or any other implement capable of taking human life, causing injury, or damaging property, in a manner or place whereby any person or property is exposed to injury or damage as a result of such discharge.

(e) Abandoning a vehicle, motor vehicle, mechanical transport, animal or other personal property.

* * * * *

11. In § 261.11 by revising paragraphs (a) and (e) to read as follows:

**§ 261.11 Sanitation.**

The following are prohibited:

(a) Depositing in any toilet, toilet vault, or plumbing fixture any substance which could damage or interfere with the operation or maintenance of the fixture.

* * * * *

(e) Dumping of any refuse, debris, trash or litter brought as such from private property or from land occupied under permit, except, where a container, dump or similar facility has been provided and is signed as such, to receive trash generated from private lands or lands occupied under permit.

12. In § 261.14, by revising paragraphs (c), (l), and (m) to read as follows:

**§ 261.14 Developed recreation sites.**

The following are prohibited:

* * * * *

(c) Cleaning or washing any personal property, fish, animal, or food; bathing or performing personal toiletries at a hydrant or water faucet not provided for that purpose.

* * * * *

(l) Bringing in or possessing a saddle, pack, or draft animal except as authorized by posted instructions.

(m) Operating or parking a motor vehicle or trailer except in places developed or designated for this purpose.

* * * * *

13. By revising § 261.15 to read as follows:

**§ 261.15 Admission, recreation use and special recreation permit fees.**

Failing to pay any fee established for admission or entrance to or use of a site, facility, equipment, or service furnished by the United States is prohibited. Maximum fine shall not exceed $100. (Sec. 2, 78 Stat. 89/, as amended: 16 USC 460l–6(e)).

14. In § 261.16, by revising paragraph (b) to read as follows:

**§ 261.16 National Forest Wilderness.**

The following are prohibited in a National Forest Wilderness:

* * * * *

(b) Possessing or using a hang glider, bicycle, wagon, cart or

* * * * *

15. By revising § 261.21 to read as follows:

**§ 261.21 Wild free-roaming horses and burros.**

The following are prohibited:

(a) Removing or attempting to remove a wild free-roaming horse or burro from the National Forest System unless authorized by law or regulation.

(b) Causing or allowing the inhumane treatment or harassment of a wild free-roaming horse or burro.

(c) Removing or attempting to remove, alter or destroy any official mark used to identify a wild horse or burro or its remains unless authorized or permitted by law or regulation.

(d) Violating any terms or conditions specified in a care and maintenance agreement or permit.

## Subpart B—Prohibitions in Areas Designated by Order

16. By amending § 261.50(e) by adding paragraph (6) to read as follows:

**§ 261.50 Orders.**

* * * * *

(e) * * *

(6) Any other person meeting exemption requirements specified in the order.

* * * * *

17. In § 261.52, by revising paragraph (j) to read as follows:

**§ 261.52 Fire.**

When provided by an order, the following are prohibited:

* * * * *

(j) Operating or using any internal or external combustion engine without a spark arresting device properly installed, maintained and in effective working order meeting either: (1) Department of Agriculture, Forest Service Standard 5100–1a; or (2) appropriate Society of Automotive

Engineers (SAE) recommended practice J335(b) and J350(a).

* * * * *

18. By amending § 261.54 by adding paragraph (f) to read as follows:

**§ 261.54 Forest developed roads.**

When provided by an order, the following are prohibited:

* * * * *

(f) Operating a vehicle carelessly, recklessly, or without regard for the rights or safety of other persons or in a manner or at a speed that would endanger or be likely to endanger any person or property.

19. In § 261.58, by revising paragraph (g) and adding paragraph (aa) to read as follows:

**§ 261.58 Occupancy and use.**

When provided by an order, the following are prohibited:

* * * * *

(g) Parking or leaving a vehicle in violation of posted instructions.

* * * * *

(aa) Riding, hitching, tethering or hobbling a horse or other saddle or pack animal in violation of posted instructions.

**Subpart C—Prohibitions in Regions**

20. By amending § 261.70(a) by adding paragraph (10) to read as follows:

**§ 261.70 Issuance of regulation.**

(a) * * *

(10) Possessing a beverage which is defined as an alcoholic beverage by State law.

* * * * *

**PART 262—REWARDS AND IMPOUNDMENTS**

21. The authority citation for Part 262 is revised to read as follows:

**Authority:** 30 Stat. 35, as amended (16 USC 551); sec. 1, 33 Stat. 628 (16 USC 472); 50 Stat. 526, as amended (7 USC 1011(f)); 58 Stat. 736 (16 USC 559(a)), unless otherwise noted.

22. In § 262.2, by revising paragraphs (a)(1), (a)(2), and (a)(3) to read as follows:

**§ 262.1 Rewards in connection with fire or property prosecutions.**

(a) * * *

(1) Not exceeding $5,000 for information leading to the arrest and conviction of any person on the charge of willfully or maliciously setting on fire, or causing to be set on fire, any timber, underbrush, or grass upon the lands of the United States within the National Forest System or nearby;

(2) Not exceeding $1,000 for information leading to the arrest and conviction of any person on the charge of having kindled or caused to be kindled a fire on lands of the United States within the National Forest System nearby, and leaving said fire which escapes before the same has been totally extinguished;

(3) Not exceeding $5,000 for information leading to the arrest and conviction of any person charged with destroying or stealing any property of the United States; and

* * * * *

23. By amending § 262.2 by adding paragraph (e) to read as follows:

**§ 262.4 Impounding of personal property.**

* * * * *

(e) The provisions of this section shall not apply to the impoundment or disposal of beached logs in Alaska if deemed abandoned under State law.

Dated: January 2, 1981.

**Bob Bergland,**

*Secretary.*

[FR Doc. 81-543 Filed 1-6-81; 8:45 am]

BILLING CODE 3410-11-M

## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Part 52**

**[A-4-FRC 1721-3]**

## Alabama: Air Quality Surveillance Plan; Approval and Promulgation of Implementation Plans

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency proposes to approve the air quality surveillance plan revision submitted by the State of Alabama on January 9, 1980, including the air monitoring site descriptions that were submitted May 15, 1980. The revision updates Alabama's State Implementation Plan (SIP) to meet EPA requirements as set forth in 40 CFR Part 58, (44 FR 27558, May 10, 1979).

The revision includes a commitment to update their monitoring network and to utilize all required quality assurance methods to ensure data accuracy. The revision also includes provisions for Emergency Episode Monitoring. Since the revision meets all EPA requirements, EPA proposes to approve the revision. The public is invited to submit written comments on this proposed action.

**DATE:** To be considered comments must be submitted on or before February 6, 1981.

**ADDRESSES:** Written comments should be addressed to Jerry Preston of EPA Region IV's Air Program's Branch (See EPA Region IV address below). Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

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

Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36130

EPA Region IV, Air Programs Branch, 345 Courtland Street NE, Atlanta, Georgia 30365

**FOR FURTHER INFORMATION CONTACT:** Jerry Preston, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

**SUPPLEMENTARY INFORMATION:** On May 10, 1979 (44 FR 27558) EPA promulgated ambient air quality monitoring and data reporting regulations. These regulations satisfy the requirements of Section 110 (a)(2)(C) of the Clean Air Act by requiring ambient air quality monitoring and data reporting for purposes of State Implementation Plans (SIP). At the same time, EPA published guidance to the States regarding the information which must be adopted and submitted to EPA as a SIP revision which provides for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) to measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

The State of Alabama has responded by submitting to EPA a plan for air quality surveillance. Their plan provides for the establishment of a SLAMS network such that the monitors will be properly sited and the data quality assured. The network will be reviewed annually for needed modifications and descriptions containing information such as location, operating schedule, and sampling and analysis method.

EPA is proposing to approve the air quality surveillance plan submitted by Alabama. Written comments on EPA's proposal should be sent to EPA Region IV (address above).

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.

Pursuant to the provisions of the 5 U.S.C. 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for this finding is that the proposal relates only to air quality surveillance to be carried out by one state and will not cause any significant economic impacts.

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

Dated: December 3, 1980.

John A. Little,

*Acting Regional Administrator.*

[FR Doc. 81-446 Filed 1-6-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL 1718-8]

## Kentucky: Proposed Air Quality Surveillance Plan; Ambient Air Quality Surveillance

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency proposes to approve the air quality surveillance plan revision submitted by the Commonwealth of Kentucky on November 15, 1979. The revision updates Kentucky's State Implementation Plan (SIP) to meet EPA requirements as set forth in 40 CFR Part 58, (44 FR 27558, May 10, 1979).

The revision includes a commitment to update their monitoring network and to utilize all required quality assurance methods to ensure data accuracy. The revision also includes provisions for Emergency Episode Monitoring. Since the revision meets all EPA requirements, EPA proposes to approve the revision.

The public is invited to submit written comments on this proposed action.

**DATES:** To be considered comments must be submitted on or before February 6, 1981.

**ADDRESSES:** Written comments should be addressed to Barry Gilbert of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the material submitted by Kentucky may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Division of Air Pollution Control, Kentucky Dept. for Natural Resources and Environmental Protection, W. Frankfort Office Complex, U.S. 127 South, Frankfort, Kentucky 40601.

**FOR FURTHER INFORMATION CONTACT:** Mr. Barry Gilbert, Environmental Protection Agency, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

**SUPPLEMENTAL INFORMATION:** On May 10, 1979 (44 FR 27558) EPA promulgated ambient air quality monitoring and data reporting regulations. These regulations satisfy the requirements of Section 110(a)(2)(C) of the Clean Air Act by requiring ambient air quality monitoring and data reporting for purposes of State Implementation Plans (SIP). At the same time, EPA published guidance to the States regarding the information which must be adopted and submitted to EPA as a SIP revision which provides for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) to measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

The Commonwealth of Kentucky has responded by submitting to EPA on November 15, 1979, a plan for air quality surveillance. Their plan provides for the establishment of a SLAMS network and that such monitors will be properly sited and the data quality assured, the network will be reviewed annually for needed modifications, and the SLAMS network descriptions will be available for public inspection and will contain information such as location, operating schedule, and sampling and analysis method.

EPA is proposing to approve the air quality surveillance plan submitted by Kentucky. Written comments on EPA's proposal should be sent to EPA Region IV (address above).

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for this finding is that the proposal relates only to air quality surveillance to be carried out by one state and will not cause any significant economic impacts.

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

Dated: December 23, 1980.

**John A. Little,**

*Acting Regional Administrator.*

[FR Doc. 81-447 Filed 1-6-81; 8:45 am]

BILLING CODE 6560-38-M

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

50 CFR Part 216

## Regulations Governing the Taking and Importing of Marine Mammals; Taking of Marine Mammals Incidental to Commercial Fishing Operations—Permits, etc.

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Proposed Amendments to Regulations.

**SUMMARY:** On October 31, 1980, NOAA published its final decision and final rule (45 FR 72178-72196) concerning the taking of porpoises incidental to commercial tuna purse seine fishing in the eastern tropical Pacific Ocean (ETP). The regulations contained in that publication became effective on January 1, 1981, and provide in § 216.24(d)(2)(i)(D) that the Assistant Administrator may, upon receipt of new information which in his opinion is sufficient to require modification of the general permit or regulations, propose to modify such after consultation with the Marine Mammal Commission. Proposed amendments to §216.24(d)(2)(i)(A)(3) are hereby announced which would modify the apportionment to individual porpoise stocks of the total allowable annual mortality limit for U.S. vessels of 20,500 animals for the years 1981-1985 and beyond. The finding that 20,500 porpoise mortalities incidental to commercial fishing in the ETP will not be to the disadvantage of the porpoise stocks is not affected by the proposed regulatory amendments, nor is any other aspect of the regulations published at 45 FR 72187-72196. The Marine Mammal Protection Act of 1972, as amended (MMPA), requires that NOAA assure itself that contemplated incidental takings will not disadvantage the affected porpoise stocks over the period of the takings. Therefore, this notice supplies information concerning the expected impact of takings under the proposed regulatory amendments.

**DATES:** Comments on the proposed regulatory amendments may be submitted on or before March 9, 1981.

**ADDRESS:** Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and

Endangered Species, NMFS, NOAA, Department of Commerce, Washington, D.C. 20235. Telephone (202) 634–7461.

**SUPPLEMENTARY INFORMATION:** On October 21, 1980, the Administrator of NOAA announced his proposed final decision in the formal rulemaking process to establish regulations to govern the taking of porpoises incidental to commercial tuna purse seine fishing in the ETP. That decision along with proposed regulations and a notice of availability of a Final Environmental Impact Statement (FEIS) were published on October 31, 1980 (45 FR 72178–72196 and 45 FR 72285, respectively, corrected at 45 FR 73486 and 45 FR 74040, respectively). The decision and proposed regulations became final on December 1, 1980, and effective on January 1, 1981.

During the period made available for public comment concerning the FEIS, comments were received from the American Tunaboat Association (ATA) which question the appropriateness of the individual stock quotas established by the Administrator's Final Decision. In particular, the matter of allowing flexibility between individual stock quotas within an aggregate limit, which was raised in the ATA's application for a general permit, was suggested as an alternative approach in the light of the possibility of mid-season closures under the newly promulgated quotas for the southern offshore, southern whitebelly spinner, and northern tropical common stocks.

The Administrator's decision found that an annual total mortality limit of 20,500 available to the U.S. fleet is economically and technologically feasible and that the stock apportionments proposed therein would not be to the disadvantage of any of the affected stocks. Assuming no change to the total mortality limit of 20,500 and the disadvantage finding, the MMPA authorizes adjustments to individual stock quotas which allow the U.S. fleet to fish in a more productive and economic manner. An approach to apportioning the 20,500 annual quota that limits mortalities from any given target stock to a maximum of 50 percent the current [1979] estimated maximum replacement yield of that stock would allow U.S. fishermen to tailor their fishing strategies to variations in the availability and location of yellowfin tuna without surrendering unfair advantage to the foreign fleet which is not subject to the existing stock quotas. This approach is followed in the present proposal. The individual stock quotas proposed herein will not be to the disadvantage of the affected stocks and would amend only the table appearing in § 216.24(d)(2)(i)(A)(3). The frequency with which mixed schools of southern offshore spotted and southern whitebelly spinner porpoise occur is reflected in this table. For example, coincidental mortalities of southern offshore spotted dolphins and southern whitebelly spinner dolphins would be expected to occur according to the known frequency of mixed schools involving these stocks.

This proposal is a mid-course correction under 50 CFR 216.24(d)(2)(i)(D). The MMPA requires that certain information on the stocks and the impact of contemplated takings on the optimum sustainable population (OSP) on each affected stock be published and made available to the public (16 U.S.C. 1373(d)). These procedural requirements are herein complied with by the table provided below. In addition to the analysis set forth herein, the other evidence or studies supporting this proposal are the comments submitted by the American Tunaboat Association on the Final Environmental Impact Statement supporting the Administrator's October 21, 1980 Final Decision. These comments are available for review in the Office of Marine Mammals, NMFS, NOAA, at the above noted address.

**Impact of Quotas for 1981–85 on the Status of Porpoise Stocks**

| Species/stock management unit | Estimated current population in 1979 | Current status of population[1] | Expected status of population at close of 1985[2] |
|---|---|---|---|
| Spotted dolphin (northern offshore) | 3,182,000 | 0.63 | 0.70 |
| Spotted dolphin (southern offshore) | 638,700 | .95 | .94 |
| Spotted dolphin (coastal) | 193,200 | .42 | .53 |
| Spinner dolphin (eastern)[3] | 418,700 | .27 | .34 |
| Spinner dolphin (northern whitebelly) | 486,600 | .78 | .82 |
| Spinner dolphin (southern whitebelly) | 264,900 | .90 | .91 |
| Common dolphin (northern tropical)[4] | 216,900 | .97 | .93 |
| Common dolphin (central tropical) | 848,400 | .89 | .90 |
| Common dolphin (southern tropical) | 477,100 | 1.00 | .96 |
| Striped dolphin (northern tropical) | 50,600 | 1.00 | .96 |
| Striped dolphin (central tropical) | 213,300 | .99 | .96 |
| Striped dolphin (southern tropical) | 483,000 | 1.00 | .97 |

[1] Proportion of pre-exploited stock size.
[2] Includes assessments for non-U.S. porpoise mortality.
[3] Includes non-target Costa Rican stock.
[4] Includes Baja neritic.

Within 15 days of publication of this proposal, by January 22, 1981, any party may direct a request to the Assistant Administrator for Fisheries of NOAA that an informal or formal public hearing be held. The Assistant Administator, upon the receipt of any requests, will determine whether a hearing is consistent with and necessary to carry out the purposes of the MMPA and within 10 days, decide whether or not to hold a hearing. If a request for a formal hearing is denied, the denial may be appealed to the Administrator. These procedures are set forth in 50 CFR 216.24(d)(2)(i)(D).

It has been determined that the proposal does not have a significant environmental effect. This determination is reflected in an Environmental Assessment that is available on request from the Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235. Further, it has been determined that the proposal is not a significant regulation within the context of Executive Order 12044.

(Marine Mammal Protection Act of 1972, as amended, 86 Stat. 1027; 16 U.S.C. 1361–1407; Pub. L. No. 92–522)

Dated: December 30, 1980.

**Terry L. Leitzell,**

*Assistant Administrator for Fisheries National Marine Fisheries Service.*

## PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

The proposed amendments to 50 CFR Part 216 are as follows:

§ 216.24 [Amended]

**Quotas for Each Calendar Year, 1981–85**

| Species/stock management unit | Take | Encirclement | Mortality[1] |
|---|---|---|---|
| Spotted dolphin (northern offshore)[2] | 16,570,000 | 10,338,000 | 20,500 |
| Spotted dolphin (southern offshore) | 4,605,000 | 2,873,000 | 5,697 |
| Spinner dolphin (northern whitebelly) | 1,205,000 | 699,000 | 5,321 |
| Spinner dolphin (southern whitebelly)[3] | 568,000 | 329,000 | 2,506 |
| Common dolphin (northern tropical)[4] | 723,000 | 450,000 | 1,890 |
| Common dolphin (central tropical) | 2,619,000 | 845,000 | 8,112 |
| Common dolphin (southern tropical) | 1,306,000 | 421,000 | 4,045 |
| Striped dolphin (northern tropical) | 28,000 | 21,000 | 429 |
| Striped dolphin (central tropical) | 118,000 | 89,000 | 1,822 |
| Striped dolphin (southern tropical) | 265,000 | 199,000 | 4,095 |

[1] The U.S. allowable mortality in any of the years 1981–85 shall not exceed 20,500.
[2] Fifty percent of replacement yield for the northern offshore spotted dolphin is 42,898; however, the maximum allowable mortality in any year is 20,500.
[3] Includes allowance for mixed species take.
[4] Includes Baja neritic dolphin stock.

[FR Doc. 81–445 Filed 1–6–81; 8:45 am]

BILLING CODE 3510–22–M

# Notices

Federal Register
Vol. 46, No. 4
Wednesday, January 7, 1981

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.

## CENTRAL INTELLIGENCE AGENCY

### Privacy Act of 1974; Annual Publication of Systems of Records

The Privacy Act of 1974 [5 U.S.C. 552a(e)(4)] requires agencies to publish annually in the **Federal Register** a notice of the existence and character of their systems of records. The Central Intelligence Agency last published the full text of its systems of records at 42 FR 48050, September 22, 1977. It was further amended at 45 FR 6820, January 30, 1980. No further changes have occurred; therefore, the systems of records remain in effect as published.

The full text of the Central Intelligence Agency systems of records also appears in Privacy Act Issuances, 1979 Compilation, Volume III, page 2518. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The price of this volume is $9.50.

**Don I. Wortman,**

*Deputy Director for Administration.*

[FR Doc. 81-365 Filed 1-6-81; 8:45 am]

BILLING CODE 6310-02-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

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

**AGENCY:** International Trade Administration.

**SUMMARY:** The Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the office of export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

**TIME AND PLACE:** January 22, 1981, at 9:30 a.m. The meeting will take place at the Federal Building, Room 15064, 450 Golden Gate Avenue, San Francisco, California.

**Agenda**

*General Session*

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Committee planning discussion for 1981:

a. Committee objectives.

b. 1981 schedule:

1. Completion of Committee report.

2. Addition of Test Equipment Subcommittee.

3. New members and Subcommittee assignments.

*Executive Session*

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

Public Participation: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202-377-4217.

**FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:**

Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: January 2, 1981.

**Saul Padwo,**

*Director of Licensing.*

[FR Doc. 81-438 Filed 1-6-81; 8:45 am]

BILLING CODE 3510-25-M

### Maritime Administration

### Designation of Recipients of SES Bonus Awards

The following Senior Executives of the Maritime Administration, U.S. Department of Commerce, are scheduled to receive bonus payments on January 26, 1981:

Mr. Wallace T. Sansone, Assistant Administrator for Maritime Aids, Washington, D.C., $8,519.

Mr. Thomas J. Patterson, Director, Western Region, San Francisco, CA. $5,512.I15Mr. Reginald A. Bourdon, Director, Office of International Activities, Washington, D.C. $5,512.

Mr. Ronald K. Kiss, Director, Office of Ship Construction, Office of the Assistant Administrator for Shipbuilding and Ship Operations, Washington, D.C., $5,512.

Dated: December 30, 1980.

**Robert J. Patton, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 81-419 Filed 1-6-81; 8:45 am]

BILLING CODE 3510-15-M

## National Oceanic and Atmospheric Administration

### Modification of Permits

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 34 issued to the Alaska Department of Fish and Game, Subport Building, Juneau, Alaska 99801 on July 19, 1974 (39 FR 27932) as modified on December 4, 1975 (40 FR 56701), March 19, 1976 (41 FR 11594), March 21, 1978 (43 FR 11730), and January 25, 1980 (45 FR 6135); Permit No. 124 issued on January 23, 1976 (41FR 4843 as modified on March 21, 1978 (43 FR 11730), and January 25, 1980 (45 FR 6135); Permit No. 194 issued on July 26, 1977 (42 FR 40961) as modified on March 21, 1980 (45 FR 18420); are further modified in the following manner:

1. Permit No. 34

Section B–5 has been changed to read, "This Permit is valid with respect to the taking authorized herein, until December 31, 1981."

2. Permit No. 124

Section B–3 has been changed to read, "This Permit is valid with respect to the taking authorized hereunder, until December 31, 1981."

3. Permit No. 194

Section B-7 has been changed to read, "This Permit is valid, with respect to the taking authorized herein, until December 31, 1981."

These modifications are effective on December 30, 1980. The Permits as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: December 30, 1980.

**Terry Leitzell,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 81–420 Filed 1–6–81; 8:45 am]

BILLING CODE 3510-22-M

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### Modification of Permits

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and § 222.25 of the Regulations Governing Endangered Species (50 CFR Part 222), Permit No. E5 issued to the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington 98112 on March 3, 1976 (41 FR 10248) as amended February 22, 1979; Permit No. 113 issued on August 21, 1975 (40 FR 38179); Permit No. E9 issued on January 23, 1976 (41 FR 5413) as amended on September 9, 1976; Permit No. 116 issued on October 31, 1975 (40 FR 51489) as modified on September 9, 1976 (41 FR 41736); and Permit No. 128 issued on March 12, 1976 (41 FR 11593) as modified on September 7, 1976 (41 FR 41736), are further modified as follows:

1. Permit No. E5

Section B–6 is modified by deleting "December 31, 1980" and substituting therefor the following: "December 31, 1985."

2. Permit No. 113

Section B–4 is modified by deleting "December 31, 1980" and substituting therefor the following: "December 31, 1985."

3. Permit No. E9

Section B–9 is modified by deleting "December 31, 1980" and substituting therefor the following: "December 31, 1985."

Section B–7 is modified by deleting "June 30, 1981" and substituting therefor the following: "June 30, 1986."

4. Permit No. 116

Section B–9 is modified by deleting "December 31, 1980" and substituting therefor the following: "December 31, 1985."

5. Permit No. 128

Section B–9 is modified by deleting "December 31, 1980" and substituting therefor the following: "December 31, 1985."

These modifications are effective on December 31, 1980.

The Permits as modified, and documentation pertaining to the modifications are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, Northwest, Washington, D.C.;

Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109; and

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: December 31, 1980.

**William H. Stevenson,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 81–421 Filed 1–6–81; 8:45 am]

BILLING CODE 3510-22-M

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## National Technical Information Service

### Government-Owned Inventions; Availability for Licensing

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

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

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

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

**Douglas J. Campion,**

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

**U.S. Department of Energy, Assist. Gen. Couns. for Patents, Washington, DC 20545**

Patent application 6,029,962: Apparatus for Solar Coal Gasification, filed April 13, 1979.

Patent application 6,042,163: Method for Producing Rapid pH Changes, filed May 24, 1979.

Patent application 6,061,149: Caliper and Contour Tool, filed July 26, 1979.

Patent application 6,061,166: Method for Introduction of Gases into Microspheres, filed July 26, 1979.

Patent application 6,067,856: Induction Logging Device, filed August 20, 1979.

Patent application 6,068,358: Method for Cleaning Bomb-Reduced Uranium Derbies, filed August 21, 1979.

Patent application 6,070,365: Device for Fracturing Silicon-Carbide Coatings on Nuclear-Fuel Particles, filed August 28, 1979.

Patent application 6,071,603: Device and Method for Electron Beam Heating of a High Density Plasma, filed August 31, 1979.

Patent application 6,098,451: Ionization Chamber, filed November 29, 1979.
Patent 4,162,230: Method for the Recovery of Actinide Elements from Nuclear Reactor Waste, filed December 28, 1977, Patented July 24, 1979, not available NTIS.
Patent 4,162,231: Method for Recovering Palladium and Technetium Values from Nuclear Fuel Reprocessing Waste Solutions, filed December 28, 1977, patented July 24, 1979, not available NTIS.
Patent 4,162,298: Method of Immobilizing Carbon Dioxide from Gas Streams, filed August 9, 1978, patented July 24, 1979, not available NTIS.
Patent 4,163,689: Vented Nuclear Fuel Element, filed December 3, 1965, patented August 7, 1979, not available NTIS.
Patent 4,164,479: Method for Calcining Nuclear Waste Solutions Containing Zirconium and Halides, filed January 12, 1978, patented August 14, 1979, not available NTIS.
Patent 4,174,293: Process for Disposal of Aqueous Solutions Containing Radioactive Isotopes, filed October 12, 1977, patented November 13, 1979, not available NTIS.
Patent 4,189,398: Nuclear Fuel Composition, filed April 15, 1965, patented February 19, 1980, not available NTIS.
Patent 4,183,671: Interferometer for the Measurement of Plasma Density, filed March 14, 1979, patented January 15, 1980, Not available NTIS
Patent 4,184,665: Thermally Actuated Wedge Block, filed December 8, 1978, patented January 22, 1980, Not available NTIS
Patent 4,186,657: Apparatus for Shearing Spent Nuclear Fuel Assemblies, filed December 7, 1978, patented February 5, 1980, Not available NTIS
Patent 4,186,118: Manipulator for Rotating and Examining Small Spheres, filed May 17, 1978, patented February 12, 1980, Not available NTIS
Patent 4,189,650: Isolated Trigger Pulse Generator, filed October 24, 1978, patented February 19, 1980, Not available NTIS
Patent 4,189,652: Beam Splitter Coupled CdSe Optical Parametric Oscillator, filed August 22, 1977, patented February 19, 1980, Not available NTIS
Patent 4,189,827: Treatment of Electrochemical Cell Components with Lithium Tetrachloroaluminate (LiAlCl/sub 47) to Promote Electrolyte Wetting, filed November 3, 1978, patented February 26, 1980, Not available NTIS
Patent 4,190,016: Cryogenic Target Formation Using Cold Gas Jets, filed March 13, 1979, patented February 26, 1980, Not available NTIS
Patent 4,190,950: Dye-Sensitized Solar Cells, filed March 24, 1978, patented March 4, 1980, Not available NTIS
Patent 4,194,813: Vacuum Aperture Isolator for Retroreflection from Laser-Irradiated Target, filed October 13, 1978, patented March 25, 1980, Not available NTIS
Patent 4,196,183: Process for Purifying Geothermal Steam, filed January 24, 1979, patented April 1, 1980, Not available NTIS
Patent 4,200,815: MHD Generating System, filed September 19, 1978, patented April 29, 1980, Not available NTIS

**U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, DC 20590**

Patent application 6,108,192: Recovery of Chromium from Scrap, filed December 27, 1979.
Patent application 6,134,601: Process for Directly Producing Anhydrous Aluminum Sulfate from Aluminum Sulfate Solution, filed March 27, 1980.
Patent application 6,156,131: Chromium Recovery from Superalloy Scrap by Selective Chlorine Leaching, filed June 3, 1980.
Patent application 6,164,759: Electrowinning of Lead from H2SiF6 Solution, filed June 30, 1980.
Patent 4,173,140: Trigger Device for Explosion Barrier, filed February 3, 1978, patented November 6, 1979, Not available NTIS
Patent 4,192,737: Froth Flotation of Insoluble Slimes from Sylvinite Ores, filed September 15, 1978, patented March 11, 1980, Not available NTIS
Patent 4,192,738: Process for Scavenging Iron from Tailings Produced by Flotation Beneficiation and for Increasing Iron Ore Recovery, filed October 23, 1978, patented March 11, 1980, Not available NTIS
Patent 4,200,036: Ventilation System for Automated Mining Machines, filed November 7, 1978, patented April 29, 1980, Not available NTIS
Patent 4,203,640: Electrical Cable Coupler With Rotatable Protective Covers, filed January 24, 1979, patented May 20, 1980, Not available NTIS
Patent 4,208,378: Desorption of Gold from Activated Carbon, filed April 11, 1977, patented June 17, 1980, Not available NTIS
Patent 4,208,379: Recovery of Metals from Atlantic Sea Nodules, filed April 4, 1979, patented June 17, 1980, Not available NTIS
Patent 4,209,739: Portable Calibrator for D.C. Circuit Breakers, filed June 27, 1978, patented June 24, 1980, Not available NTIS
Patent 4,209,741: Apparatus for the Continuous Monitoring of Ground Bed Resistance, filed March 8, 1978, patented June 24, 1980, Not available NTIS

**U.S. Dept. of Health & Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205**

Patent 4,154,759: Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid, filed August 10, 1978, patented May 15, 1979, Not available NTIS
Patent 4,178,306: Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid, filed August 10, 1978, patented December 11, 1979, Not available NTIS
Patent 4,179,464: Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid, filed August 10, 1978, patented December 18, 1979, Not available NTIS
Patent 4,215,070: N-(Phosphonoacetyl)-L-Aspartic Acid Compounds and Methods for Their Preparation, filed October 25, 1978, patented July 29, 1980, Not available NTIS
Patent 4,220,552: Method of Producing Delayed Release of Sodium Fluoride, filed June 5, 1978, patented September 2, 1980, Not available NTIS

**U.S. Department of the Navy, Director, Navy Patent Program/Patent Council for the Navy, Office of Naval Research, Code 302, Arlington, VA 22217**

Patent application 6,162,702: Slow-Wave Wideband Cyclotron Amplifier, filed June 24, 1980.
Patent application 6,165,817: Control System for Solar-Assisted Heat Pump System, filed July 3, 1980.
Patent 4,192,245: Guiding Means for Self-Propelled Torpedoes, filed May 14, 1958, patented March 11, 1980, Not available NTIS.
Patent 4,213,073: Rod Pinch Diode, filed September 20, 1978, patented July 15 1980, Not available NTIS.
Patent 4,213,670: Planar Fiber Optic Star and Access Coupler, filed Oct. 6, 1977, patented July 22, 1980, Not available NTIS.

**Nat. Aeronautics and Space Admin., Assist. Gen. Couns. for Pat. Matters, NASA Code GP-2, Washington, DC 20546**

Patent application 6,171,927: Superconducting Gyrocon for High Power High Efficiency Microwave Generator/Amplifier Application, filed July 18, 1980.
Patent application 6,173,519: Automotive Absorption Air Conditioner Utilizing Solar and Motor Waste Heat, filed July 30, 1980.
Patent application 6,173,520: Method for Milling and Drilling Glass, filed June 30, 1980.
Patent application 6,173,521: Castable High Temperature Refractory Materials, filed July 30, 1980.
Patent application 6,173,524: Low Intensity X-Ray and gamma-Ray Imaging Spectrometer, filed July 30, 1980.
Patent 4,090,213: Induced Junction Solar Cell and Method of Fabrication, filed June 15, 1976, patented May 16, 1978, Not available NTIS.
Patent 4,191,893: Natural Turbulence Electrical Power Generator, filed March 3, 1978, patented March 4, 1980, Not available NTIS.

[FR Doc. 81-441 Filed 1-6-81; 8:45 am]
BILLING CODE 3510-04-M

## DEPARTMENT OF EDUCATION

### Advisory Panel on Financing Elementary and Secondary Education

**AGENCY:** Advisory Panel on Financing Elementary and Secondary Education.

**ACTION:** Notice of Hearing and Meeting.

**SUMMARY:** This notice is to inform the general public of its opporutnity to attend and participate in the forthcoming hearing and meeting of the Advisory Panel on Financing Elementary and Secondary Education. The notice sets forth the schedule and proposed agenda for the hearing and meeting and describes the functions of the Advisory Panel. Notice of the hearing and meeting is required under the Federal Advisory Committee Act, Section 10(a)(2).

**DATE:** 9:00 a.m.–5:00 p.m., February 19 and 20, 1981; 9:00 a.m.–3:00 p.m., February 21, 1981.

**ADDRESS:** Hall of Fame Inn, 2222 North Westshore Boulevard, Tampa, Florida.

**FOR FURTHER INFORMATION CONTACT:** Will S. Myers, Executive Director, Advisory Panel on Financing Elementary and Secondary Education, 1325 G Street, N.W., Suite 710, Washington, D.C. 20005, (202) 724–0875.

**SUPPLEMENTARY INFORMATION:** The Advisory Panel on Financing Elementary and Secondary Education was established by Section 1203, Title XII of the Education Amendments of 1978 (Pub. L. 95–561). The Panel provides the Secretary and the Congress with advice and counsel concerning public policies on raising and distributing revenues to support elementary and secondary education. The Advisory Panel also provides advice to the Secretary concerning the conduct of studies authorized by Section 1203. The Advisory Panel will make interim reports to the President and the Congress in 1981 and 1982. The Advisory Panel will also provide recommendations for legislation or other appropriate action to Congress.

**AGENDA:** The proposed agenda includes:

**HEARING:** Testimony by invited witnesses and other persons from the State, local, academic, and nonpublic school communities on the issue of finance and governance problems that stem from Federal school aid programs and proposals to improve Federal, State, and local fiscal arrangements for public and nonpublic schools.

**MEETING:** Report by the Chairman and Executive Director, Presentation of staff paper on Federal grant programs, Discussions of issues raised by staff paper and testimony, Development and adoption of preliminary policy recommendations, Discussion of agenda for the next Panel meeting and hearing.

Persons are invited to submit written testimony for the hearing record. Those interested in presenting oral testimony should contact the Executive Director no later than February 2, 1981. The Advisory Panel asks that testimony, either oral or written, be directed to the topic of the hearing. Both the hearing and meeting of the Advisory Panel are open to the public.

Records are kept of all Advisory Panel proceedings and are available for public inspection at the office of the Advisory Panel on Financing Elementary and Secondary Education located at 1325 G Street, N.W., Suite 710, Washington, D.C. 20005.

Signed at Washington, D.C. on January 2, 1981.

**Will S. Myers,**

*Executive Director, Advisory Panel on Financing Elementary and Secondary Education.*

[FR Doc. 81-406 Filed 1-6-81; 8:45 am]

**BILLING CODE 4000-01-M**

## Education Appeal Board; Proceedings

**AGENCY:** Department of Education.

**ACTION:** Notice of Education Appeal Board Proceedings scheduled for January 1981.

**SUMMARY:** This notice advises readers that the Education Appeal Board has scheduled a prehearing conference in the *Appeal of the State of Hawaii*, Docket No. 3–(39)–78, for January 15, 1981, and in the *Appeal of the State of Hawaii*, Docket No. 4–(50)–79, for January 16, 1981. This notice also advises readers that interested third parties may apply to intervene in the appeal proceedings.

**FOR FURTHER INFORMATION CONTACT:** Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

**SUPPLEMENTARY INFORMATION:** Under the Education Amendments of 1978 (20 U.S.C. 1234), the Education Appeal Board has authority to conduct (1) audit appeal proceedings, (2) withholding, termination, and cease and desist proceedings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. For information concerning the Board and its procedures, see the Board's final regulations as published in the **Federal Register** on April 3, 1980 (45 FR 22634).

*Prehearing Conferences*

The Education Appeal Board has scheduled prehearing conferences in two audit appeals for the month of January 1981:

(1) *Appeal of the State of Hawaii*, Docket No. 3–(39)–78. The prehearing conference is scheduled for January 15, 1981, in Room 3000, 400 Maryland Avenue, S.W., Washington, D.C. The conference will begin at 10:30 a.m.

In its appeal, Hawaii is contesting final audit determinations made by the Deputy Commissioner for Elementary and Secondary Education (now the Assistant Secretary for Elementary and Secondary Education). The Deputy Commissioner found that during fiscal years 1973 through 1976, the Windward and Leeward local educational agencies used funds under Title I of the Elementary and Secondary Education Act of 1965 for modified curriculum projects which should have been funded with State and local funds. The Windward local educational agency also used Title I funds for language arts classes which should have been funded with State and local funds. The Deputy Commissioner requested a refund of $398,495.00 from Hawaii.

(2) *Appeal of the State of Hawaii*, Docket No. 4–(50)–79. The prehearing conference is scheduled for January 16, 1981, in Room 3000, 400 Maryland Avenue, S.W., Washington, D.C. The conference will begin at 10:30 a.m.

In this appeal, Hawaii is contesting final audit determinations made by the Deputy Commissioner for Elementary and Secondary Education (now the Assistant Secretary). The Deputy Commissioner found that during fiscal years 1974 through 1977, the Hawaii, Honolulu, and Leeward local educational agencies did not provide State and locally-funded services to schools receiving funds under Title I of the Elementary and Secondary Education Act of 1965 that were comparable to the services provided to schools not receiving Title I funds. The Deputy Commissioner requested a refund of $1,711,123.00 from Hawaii.

*Intervention*

Section 78.43 of the final regulations establishing procedures for the Education Appeal Board provides that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board, including the two appeals listed above.

An application to intervene must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the potential intervenor has an interest in and information relevant to the specific issues raised in the appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

All such applications or questions should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB–6), Washington, D.C. 20202, telephone (202) 245–7835.

(20 U.S.C. 1234)

(Catalog of Federal Domestic Assistance Number not applicable)

Dated: December 24, 1980.

David S. Pollen,

*Chairman, Education Appeal Board.*

[FR Doc. 81-439 Filed 1-6-81; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

**[Docket No. ERA-FC-80-013; OFC Case No. 55041-0731-01-12]**

### Powerplant and Industrial Fuel Use Act of 1978; Brunswick Pulp and Paper Co.; Granting of Exemption

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Order Granting an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

**SUMMARY:** On March 13, 1980, Brunswick Pulp and Paper Company (Brunswick) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) seeking permanent exemptions for a new major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). The Act prohibits the use of petroleum or natural gas as a primary energy source in certain new MFBIs. Brunswick filed its petition for exemptions under ERA's interim rule implementing FUA. The interim rule was subsequently superseded by a final rule published on June 6, 1980 (45 FR 38276 and 45 FR 38320), which became effective August 5, 1980.

Brunswick requested (1) a permanent fuel mixture exemption to use a fuel mixture of hydrogen gas and not more than 25 percent petroleum (No. 6 oil) under § 505.28, (2) an emergency purposes exemption under § 505.29 and (3) a scheduled equipment outage exemption under § 505.31 of the interim rule. On August 5, 1980, §§ 505.28, 505.29, and 505.31 of the interim rule were superseded by §§ 503.38, 503.39, and 503.43 of the final rule, respectively.

Pursuant to Section 212(d) of the Act, and subject to specified terms and conditions stated therein, ERA hereby issues this order granting a permanent fuel mixtures exemption to Brunswick to permit the use of hydrogen in a mixture with No. 6 oil. As specified in the terms and conditions, the amount of No. 6 oil used in the exempted unit shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit.

This order also denies Brunswick's petition requesting permanent exemptions on the basis of (1) emergency purposes and (2) scheduled equipment outages, by petitioning for a fuel mixtures exemption. Brunswick has demonstrated that the use of a mixture is economically and technically feasible in the proposed new unit. Brunswick cannot, therefore, meet the evidentiary requirement for either an emergency purposes or a scheduled equipment outages exemption, each of which requires that a petitioner demonstrate that the use of a mixture is not economically or technically feasible (§§ 503.39(c)(2) and 503.43(b)(4), respectively).

**FOR FURTHER INFORMATION CONTACT:**

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128J, Washington, D.C. 20461, Phone (202) 653-4226.

Anthony M. Vaitekunas, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128K, Washington, D.C. 20461, Phone (202) 653-4226.

James Renjilian, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967.

The public file containing a copy of all documents and supporting materials in this proceeding is available for inspection upon request at: ERA, Room B-110, 2000 M Street, NW., Washington, D.C., Monday through Friday, 8:00 a.m.-4:30 p.m.

**SUPPLEMENTARY INFORMATION:**

Brunswick's petition for a permanent fuel mixtures exemption is for an MFBI, a package boiler, to be constructed at its Brunswick, Georgia plant facilities in order to use a mixture of hydrogen (an alternate fuel) and an amount of No. 6 oil not to exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit. The package boiler will have a heat input rate design capability of 198 million Btu's per hour and a steam generating capacity of 150,000 pounds per hour. Brunswick certified in its petition that the amount of No. 6 oil that is proposed to be used in the package boiler will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit. However, Brunswick also stated that the temporary higher capacity usage of the package boiler (about 12 days of planned outages and about 14 days of unplanned outages annually) would necessitate the use of a higher proportion of No. 6 fuel oil to hydrogen.

In accordance with the procedural requirements of FUA and ERA's then applicable interim rules, ERA accepted Brunswick's petition on May 24, 1980, and published a Notice of Acceptance in the **Federal Register** on June 4, 1980 (45 FR 37722). The Notice of Acceptance provided a 45-day comment period during which interested persons could submit written comments on the petition for exemption and could request a public hearing. This period expired on July 21, 1980. No comments were received. A public hearing was not requested.

ERA's staff reviewed the information contained in the record of this proceeding and based on that review made a Tentative Staff Analysis on October 16, 1980, which recommended that an order be issued to grant a permanent fuel mixtures exemption to Brunswick permitting the use of a No. 6 oil and hydrogen mixture in the package boiler, provided that the amount of No. 6 oil used in the unit does not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit. ERA's staff has determined that a mixture not to exceed 25 percent of No. 6 oil to hydrogen, on an annual basis, will permit the unit to operate at required levels of steam production, not only during periods of normal operation, but when the unit is required to be used for both planned and unplanned outages. The Tentative Staff Analysis also recommended that Brunswick's request for permanent exemptions on the basis of (1) emergency purposes and (2) scheduled equipment outages be denied. Notice of the availability of the Tentative Staff Analysis on Brunswick's petition was published in the **Federal Register** on October 29, 1980 at 45 FR 71648. In that notice a 14-day period was provided for interested persons to submit written comments on the Tentative Staff Analysis or to request a public hearing. No comments were received nor was a public hearing requested.

As required by Sections 701(f) and (g) of the Act, ERA provided a copy of Brunswick's petition to the Environmental Protection Agency and the Federal Trade Commission for their comment. No comments have been received from either of these agencies.

### Decision and Order

Based upon review of the entire record of this proceeding, ERA has determined that Brunswick does not qualify for the requested emergency purposes exemption and the scheduled equipment outage exemptions as, pursuant to §§ 503.39(c)(2) and 503.43(b)(4), it is unable to demonstrate

that the use of a fuel mixture in the package boiler is not economically or technically feasible. Therefore, Brunswick's request for the above cited exemptions is denied. ERA has also determined that Brunswick has satisfied the requirements of § 503.38(c). Accordingly, pursuant to Section 212(d) of FUA, and subject to the terms and conditions stated below, ERA hereby grants Brunswick a permanent fuel mixtures exemption to permit, in a mixture with hydrogen, the use of No. 6 fuel oil in the package boiler in an amount not to exceed 25 percent of the total annual Btu heat input of the primary energy sources used in that unit.

### Terms and Conditions

Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. ERA has determined that the conclusions reached in the Tentative Staff Analysis are consistent with the provisions of the final rule with the exception of the recommended terms and conditions. Consequently, the terms and conditions of this order incorporate the specific terms and conditions required by 10 CFR 503.38(e). Accordingly, this order is granted subject to the following terms and conditions:

1. The amount of No. 6 oil used in the package boiler shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit.

2. The quality of any petroleum to be burned in the package boiler will be the lowest grade available, which is technically feasible and capable of being burned consistent with applicable envoironmental requirements.

### Reporting Requirement

In accordance with the reporting requirement in § 503.38(g), Brunswick will certify to the Economic Regulatory Administration (ERA), Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, the date the package boiler is first operated and, each year on the anniversary of that date, that the amount of No. 6 oil used in the package boiler did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of that unit. The certification must be executed by a duly authorized representative of Brunswick. The OFC Case Number assigned this proceeding, 55041-0731-01-12, shall be cited on the annual reports.

On the basis of the analysis provided by the Office of Fuels Conversion, and reviewed by the DOE's Office of Environment, with consultation from the Office of the General Counsel, DOE has concluded that the granting of this exemption will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA). Accordingly, neither an environmental impact statement nor an environmental assessment is required.

### Effectiveness of Order

The exemption granted by this order shall not become effective earlier than the 60th calendar day after the date of publication of this order in the **Federal Register.**

### Judicial Review

Pursuant to Section 702(c) of the Act, any person aggrieved by this order may at any time before March 9, 1981, petition for judicial review in accordance with the procedures outlined in 10 CFR 501.69.

Issued in Washington, D.C., on December 31, 1980.

**Robert L. Davies,**

*Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.*

[FR Doc. 81-407 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-01-M

**[ERA Case No. 52970-9039-01, 02, 03, 04-82]**

## Tucson Electric Power Co., Tucson, Arizona; Notice and Issuance of Proposed Prohibition Orders Pursuant To Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice pursuant to section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, (FUA or the Act), of the issuance of proposed prohibition orders which would prohibit the powerplants named below from burning natural gas or petroleum in a mixture with an alternate fuel in amounts in excess of the minimum amounts necessary to maintain reliability of operation of the units consistent with maintaining reasonable fuel efficiency. The exact proportions of the fuel mixture will be proposed in a Tentative Staff Analysis, and established upon issuance of the final prohibition order.

### Proposed Prohibition Orders

Pursuant to section 301(c) of FUA, ERA issues these proposed prohibition orders to the following powerplants (Irvington Station Units 1, 2, 3 and 4) owned by the Tucson Electric Power Company (Utility).

| ERA case No. | Generating station | Plant No. | Megawatt capacity | Location |
|---|---|---|---|---|
| 52970-9039-01-82 | Irvington Station | 1 | 80 | Tucson, Arizona. |
| 52970-9039-02-82 | do | 2 | 80 | |
| 52970-9039-03-82 | do | 3 | 105 | |
| 52970-9039-04-82 | do | 4 | | |

### Statement of Basis and Rationale for Proposed Prohibition Orders

ERA has issued regulations applicable to existing facilities, 10 CFR Part 504 (Regulations), to implement the prohibitions contained in section 301(c) of FUA. 10 CFR 504.7 of the Regulations sets forth the basis upon which ERA will propose to prohibit, by order, the amount of natural gas or petroleum that may be used by a powerplant, where ERA finds that it is technically and financially feasible for the powerplant to use a mixture of petroleum or natural gas and an alternate fuel as its primary energy source. These proposed orders further describe the criteria which ERA proposes to use for making the findings required by section 301(c) of FUA prior to the issuance of final prohibition orders.

The Utility reported to the Federal Energy Regulatory Commission (FPC Form 67), for the year ended December 31, 1979, that Irvington Station Units 1, 2, 3 and 4 burned a total of 921,300 barrels of oil and 14,384,000 Mcf of natural gas. This total consumption is equivalent to approximately 3.4 million barrels of oil. Based upon data supplied by the Utility, the potential oil equivalent displacement which would result from the conversion of the four powerplants and their operation using mixtures of oil or natural gas and coal has been estimated to be 1.9 million barrels annually.

For purposes of making the findings required by section 301(c) of FUA prior to issuance of a final prohibition order, ERA proposes that the following criteria

be used for determining technical and financial feasibility:

*Technical feasibility.* ERA will assess "technical feasibility" on a case-by-case basis. A primary consideration will be the ability of the unit, from the point of fuel intake, to physically sustain combustion with the proposed fuels, and to maintain heat transfer. The finding will be based on the unit's capability to burn the specified fuels, notwithstanding the facts that adjustments must be made to the unit beforehand or that pollution control equipment may be required to meet air quality requirements.

A further consideration will be the burning of the proposed "mixture" in such manner so as to limit the amounts of pertroleum or natural gas to the minimum necessary to maintain reliability of operation, consistent with reasonable fuel efficiency.

In considering reliability of operation, ERA will assess, among other things seasonal system peak load reserve margin requirements, so that the reserve margin will not be less than 15 percent of such seasonal peak load requirements during any period of the year. ERA will also consider whether conversion of the units from petroleum or natural gas to a mixture of petroleum or natural gas and an alternate fuel will result in a substantial reduction in rated capacity. ERA will regard a derating of the unit of 25 percent or more as substantial. In computing the applicable derating percentage, derating will be considered on an annual basis.

ERA, in making the required technical feasibility finding, will consider whether physical modification to the unit would be substantial. ERA may consider physical modifications to be substantial where warranted by the magnitude and complexity of the engineering tasks, or where the modification would impact severely upon operations at the site. ERA will not, however, assess technical feasibility on the basis of cost of required physical modifications to the unit or the installation of pollution control or fuel handling equipment. This assessment will be completed in connection with the required financial feasibility finding.

*Financial feasibility.* ERA will presume that it is financially feasible for a unit to use a mixture of oil or natural gas and an alternate fuel as its primary energy source if the cost of using the mixture substantially exceeds the cost of using imported petroleum as calculated using the general cost calculation described in 10 CFR 504.12, issued by ERA on December 19, 1980.

The Utility may seek to rebut the presumption in the paragraph above with evidence that, despite good faith efforts, it is unable to raise the capital that would be necessary for the conversion, or that for some other economic or financial reason, conversion is not financially feasible. The standard for assessing capital availability will be that specified in 10 CFR 503.35(a)(2).

In making this finding, ERA will consider the financial impact of the conversion, including other conversions, which are or may be imposed upon the utility system by the Act.

**Preliminary Finding of Technical Feasibility**

In accordance with section 301(c) of FUA, the proposed orders are based on preliminary findings by ERA that it is technically feasible for Irvington Station Units 1, 2, 3 and 4 to use a mixture of petroleum or natural gas and coal (alternately burned) as a primary energy source. This finding is based on data furnished to ERA by the Utility, consisting of the following three reports: (1) "Conversion To Coal Firing Tucson Gas Electric Power Co. Irvington Station Unit No. 4", prepared by Foster Wheeler Energy Corporation, dated October 7, 1980, (2) "Engineering Report Coal Conversion, Tucson Electric Power Company, Irvington Units No. 1, No. 2 and No. 3", prepared by Combustion Engineering Incorporated, dated October 1980, and (3) "Irvington Station Coal Conversion Study, Phase I Report," prepared by Sterns-Roger Engineering Corp., dated October 1980.

The reports indicate the ability of the units, from the point of fuel intake, to physically sustain coal combustion and maintain heat transfer. This finding recognizes that Irvington Station Units 1, 2, 3 and 4 is capable of burning a mixture of petroleum or natural gas and an alternate fuel (coal), notwithstanding the fact that adjustments must be made to the units beforehand or that additional pollution control equipment may be necessary to meet air quality requirements.

**Proposed Prohibition Orders Under Title III of FUA**

Subject to any other findings that ERA may make, ERA hereby proposed to prohibit Irvington Station Units 1, 2, 3 and 4 from burning petroleum or natural gas in a mixture with alternate fuel (coal) in amounts in excess of the minimum amounts necessary to maintain reliability of operation of the units consistent with maintaining reasonable fuel efficiency. The exact proportions of the fuel mixture will be proposed in a tentative staff analysis, which will be issued following the public comment periods, and established upon issuance of the final prohibition order.

**Description of Prohibition Order Proceedings**

Pursuant to section 301 of FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, 10 CFR § 501.5. Consistent with these regulations, ERA is adopting the following procedure for the processing of these proposed orders:

(1) A decision has been made to issue proposed prohibition orders to the Utility for Irvington Station Units 1, 2, 3 and 4. ERA is hereby publishing its preliminary technical feasibility finding and proposed prohibition orders in the **Federal Register**, as required by section 701(b) FUA.

(2) In accordance with 10 CFR 501.51(b)(3), a public comment period of at least three months is to commence after publication of a proposed prohibition order, during which period the Utility will be given an opportunity to respond to ERA's initial finding of technical feasibility contained in the proposed prohibition order. During this three-month comment period, the Utility is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings which it is required to make prior to issuance of a final prohibition order. The Utility will also be required during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the powerplant may qualify.

(3) Subsequent to the end of the initial comment period of at least three months, ERA will issue a notice of whether it intends to proceed with the proposed prohibition order. Within three months of the issuance of the notice of intention to proceed with the proposed prohibition order, the Utility may demonstrate that the powerplant would qualify for an exemption if the proposed prohibition order had been established by rule.

(4) Subsequent to the end of the second comment period, ERA will, if it intends to issue the final prohibition order, prepare and publish a Notice of Availability of a Tentative Staff Analysis.

(5) Under the provisions of section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order. Pursuant to 10 CFR 501.51(b)(6), interested persons wishing a hearing must make their request in writing no later than 45 days after publication of the Notice of Availability of a Tentative Staff Analysis. If a hearing is requested, ERA shall provide interested person with an

opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(6) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed prohibition order and Tentative Staff Analysis, the Utility's showing on any exemptions and rebuttal of ERA's proposed prohibition order, and ERA's rebuttal to any showing of potential qualification for exemption.

(7) After the hearing, if any, or at the end of the second three-month comment period, ERA shall determine whether the final prohibition order will be issued, based upon ERA's review of the entire administrative record. The final prohibition order, if issued, together with a summary of the basis therefor, will be published in the **Federal Register.** Such order shall not take effect earlier than sixty days after publication.

**Comment and Public Hearing Procedures**

ERA hereby also gives notice of the opportunity for interested persons to submit written comments, views and arguments regarding these proposed prohibition orders, including the proposed criteria to be used in making the required findings under section 301(c) of FUA. Comments need not be limited to ERA's technical feasibility finding, but may include a discussion of the financial and other factors requisite to findings necessary for issuance of a final order.

The initial comment period shall remain open for a period of three months after publication of these proposed orders in the **Federal Register,** unless reduced at the request of the Utility pursuant to 10 CFR 501.51(b)(8). Notice of any such change during the time for public comment will be published in the **Federal Register.** Comments should make reference to the case numbers set forth in this notice and the proposed prohibition orders. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed prohibition orders believed to be relevant.

Written comments on the proposed prohibition orders should be directed to Public Hearing Management (Case No. 52970-9039-01, 02, 03, 04-82), U.S. Department of Energy, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, and should be received before 4:30 p.m. on April 7, 1981.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed prohibition orders. The request must include a description of the person's interest in the proposed prohibition orders, an outline of the anticipated content of the presentation to be made at where the person requesting the public hearing may be reached. The request also should, to the extent possible, identify any witnesses that may be presented at the hearing, and summarize their anticipated testimony and the purpose of the testimony.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Orders for Irvington Station Units 1, 2, 3 and 4." Fifteen copies should be submitted.

All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 501.7(g). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

For further information contact:

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, 202-653-4055.

James W. Workman, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3112, Washington, D.C. 20461, 202-653-4268

Marilyn L. Ross, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B-178, Washington, D.C. 20585, 202-252-2967

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.;* E.O. 12009 (42 FR 46267))

Issued in Washington D.C., December 31, 1980.

**Robert L. Davies,**

*Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.*

[FR Doc. 81-507 Filed 1-6-81; 8:45 am]

**BILLING CODE 6450-01-M**

## Federal Energy Regulatory

**[Docket No. ER80-204]**

## CP National Corp.; Order Vacating Summary Disposition and Accepting Rates

Issued: December 31, 1980.

On August 7, 1980, the Commission accepted a rate schedule under which CP National is providing transmitting power and energy purchased from Utah Power and Light Company to the City of St. George, Utah. In this Order, the Commission disposed summarily of a portion of the rate tendered by CP National.

CP National sought rehearing of this summary disposition an a stay of this provision of the Commission's Order on September 5, 1980. Subseqently, the Commission granted rehearing for the limited purposes of further consideration, and the requested stay.

CP National's original filing proposed a rate of $21.67 per kW year. In response to an inquiry from the Commission's Office of Electric Power Regulation, CP National indicated that the rate would have been $1383 per kW/year but for the recovery from St. George of its share of a substantial deficiency created by the rate specified in a contract between CP National and the Western Area Power Administration (WAPA) for transmission service to, among others, the City of St. George. CP National in its response to the Commission's inquiry further stated that there was no material difference between the WAPA, transmission services and the Utah Power and Light St. George transmission service. Consequently, the Commission ordered CP National to refile its rates for the proposed new service on the ground that recovery of the deficiency created by the low WAPA contract rate (under which power was transmitted to, among others, St. George) by a surcharge on rates for other transmision to St. George deprived St. George of the benefits of the WAPA contract without the legally necessary showing that the WAPA rate was so low as to be inconsistent with the public interest.[1]

In its petition for rehearing, CP National advances a significantly different rationale in support of the $21.67 per kW/year rate. The new rationale notes that WAPA delivers power to CP National for transmission to ST. George at a point where only CP National's 138 kv transmission system need be utilized to deliever the electricity to St. Georgia; whereas

[1] *FPC v. Sierra Pacific Power Co.* 350 U.S. 348 (1956); *United Gas Pipeline Company v. Mobile Gas Service Corporation et. al.* 350 U.S. 332 (1956)

electricity from Utah Power and Light enters CP National's system at a point where both the 230 kv transmission lines and the 138 kv transmission lines are likely to be utilized to deliver the electricity to St. George. Under this analysis, CP National argues, the WAPA rate of $4.20 per kW/year is roughly adequate to cover the cost of the 138 kv lines used to transmit WAPA electricity to St. George; and the $21.67 per kW/year rate for the transmission of Utah Power and Light electricity is substantially cost-supported on the basis of the cost of both the 230 kv and the 138 kv lines.

CP National's alternative rationale advanced in its petition for rehearing thus does not seek to justify a rate for the services at issue here based upon a perceived deficiency created by the WAPA contract rate. This alternative rationale, then, avoids substantial questions (resolved in the Commission's August 7 Order) arising out of the Supreme Court's opinions in *Sierra* and *Mobile*. In light of this fact and the fact that St. George has agreed to the rate as originally filed, the Commission will accept the rate of $21.67 per kW/year.

*The Commission orders:*

(A) Ordering paragraphs B, C and D of the Commission's August 7, 1980, order are hereby vacated.

(B) The originally propose rate of $21.67 per kW/year for transmission service to St. George is accepted as filed, effective as of June 25, 1979.

(C) This Docket is hereby terminated.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 81-484 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ES81-19-000]**

## Gulf States Utilities Co.; Application

December 30, 1980.

Take notice that on December 17, 1980, Gulf States Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, requesting authorization to enter into negotiations in connection with the issuance of up to 2,000,000 Shares of Preferred Stock.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 81-485 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ES81-20-000]**

## Gulf States Utilities Co.; Application

December 30, 1980.

Take notice that on December 17, 1980, Gulf States Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, requesting authorization to enter into negotiations in connection with the issuance of up to $100,000,000 of First Mortgage Bonds.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to beocme parties to a proceeding or to participate as a party in any hearing therein must file petitions to interevene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 81-486 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. RP81-18-000]**

## High Island Offshore System; Order Accepting Proposed Tariff Sheets for Filing, and Establishing Hearing Procedures

Issued: December 31, 1980.

On December 1, 1980, High Island Offshore System (HIOS) filed Fourth Revised Sheet No. 4, First Revised Sheet No. 7 and Second Revised Sheet No. 8 to Original Volume No. 1, proposing an annual increase in revenues from jurisdictional transportation services of $11.6 million based on actual costs for the 12 month period ending August 31, 1980, as adjusted. HIOS requests that the proposed increase become effective on January 1, 1981.

HIOS claims that the proposed revenue increase is necessary because of increased levels of operation and maintenance expenses, changes in the method of computing depreciation, a reduction in the charge applicable to separation facilities,[1] and a need for an overall rate of return of 10.98% which yields a 17% return on common equity which common equity comprises 24.7% of total capitalization.

HIOS requests that the Commission consider the proposed filing as a compliance filing pursuant to the December 6, 1977, order in High Island Offshore System, Docket Nos. CP75-104, *et al.*, and as a rate increase filing pursuant to Section 4 of the Natural Gas Act. For the reasons set forth below, we shall treat this filing as a filing in compliance with the December 6, 1980 order.

In the December 6, 1977 order in Docket Nos. CP75-104, *et al.*, the Commission approved the use by HIOS of an interim transportation rate for the period commencing with the first day of operations until January 1, 1979. The Commission further directed that:

HIOS shall submit a cost of service study every two years to justify its then existing rates or provide a basis for a rate change. The first such study shall be submitted on or

[1] By order issued December 22, 1978 in *High Island Offshore System*, Docket Nos. CP75-104 *et al.*, the Commission required HIOS to provide for recovery of costs associated with the handling of liquids and liquefiables through a separate charge. HIOS established the charges applicable to the separation function in a filing of June 12, 1979, in compliance with Commission orders. The allocation method was based upon the ratio of separation facilities to total facilities at Grand Chenier and Cameron Meadows, Louisana, with operation and maintenance assigned on a functional basis. HIOS allocated $5,100,000 of the total facilities costs of $9,970,000 to the separation function to be charged to the Shippers for separation of liquids. In the present filing HIOS shows no allocation of costs to separation services and as a result reflects a charge of $0 for separation services. This matter should be addressed in the hearing established in this order.

before March 31, 1981. Any changes found to be necessary shall become effective the first day of the year in which the cost study is submitted."

Since the time period covered by the instant rate filing, with a proposed effective date of January 1, 1981, would be the same time period covered by the required biennial cost study, it is appropriate to accept the proposed tariff sheets for filing as being in compliance with the Commission's December 6, 1977, order in Docket Nos. CP75–104, *et al.*, and permit them to become effective as of January 1, 1981, as provided below.

Based upon a review of HIOS' filing, the Commission finds that the proposed tariff sheets have not been shown to be justified. Accordingly, the Commission shall accept HIOS' filing to be effective January 1, 1981, *provided; however;* that pursuant to the certificate condition in the December 6, 1977, order set forth above, any change found to be necessary in the rates shall become effective as of January 1, 1981. Should any refunds be necessary, the amount refunded shall include interest at the rate prescribed in § 154.67 of the Regulations.

*The Commission Orders:*

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's Rules and Regulations, a public hearing shall be held concerning the lawfulness of the changed rates proposed by HIOS.

(B) Pending hearing and decision, HIOS' proposed tariff sheets are accepted for filing to become effective as of January 1, 1981, *provided; however;* that pursuant to the certificate condition set forth in the December 6, 1977, order in Docket Nos. CP75–104 *et al.*, any changes found to be necessary shall become effective as of January 1, 1981. Should any refunds be necessary, the amount to be refunded shall include interest at the rate prescribed in Section 154.67 of the Regulations.

(C) The Commission Staff shall prepare and serve top sheets on all parties on or before April 1, 1981.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the Rules of Practice and Procedure.

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 81-489 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80–492]**

## Idaho Power Co.; Order Granting Waiver and Motion To Collect Interim Rates in Lieu of Filed Rates

Issued: December 30, 1980.

On November 18, 1980, Idaho Power Company (Idaho) filed a motion requesting authorization to collect proposed interim rates [1] for service to one of its wholesale customers, CP National Corporation (CP National), in two service areas. Idaho requested that the interim rates for service to CP National in eastern Oregon be made effective as of December 1, 1980. An effective date of January 1, 1981, was requested with respect to the rates for service to CP National in Elko, Nevada. Idaho stated that the interim rates would be collected subject to refund pending final disposition of this case. Idaho further stated that it anticipated filing a settlement agreement in this docket incorporating the interim rates and predicated in part on the interim rates becoming effective on the dates requested. Such an agreement was, in fact, submitted to the Commission on December 2, 1980.

By order issued August 29, 1980, Idaho's originally proposed rates were suspended for five months and permitted to become effective on February 1, 1981, subject to refund. Idaho has requested waiver of §§ 35.3 (notice) and 35.17(b) (changes in suspended rate schedules) of the Commission's regulations in order to put the interim rates into effect. In its November 18 motion, Idaho stated that CP National and the other intervenors, the Oregon Public Utility Commissioner and the Idaho Public Utilities Commission, had expressed their agreement with respect to the interim rate proposal. This concurrence was subsequently evidenced by the intervenors' execution of the proposed settlement agreement.

The settlement rates reflect a reduction in test year revenues as compared to the rates originally filed by Idaho. Under the original filing, the proposed rate changes would increase CP National's rates for eastern Oregon operations by $5,228,218 (92%) and the rates for Elko, Nevada operations by $678,917 (72%). In contrast, the proposed interim rates reflect annual increases in revenues of $4,500,000 and $555, 000 for the Oregon and Elko operations, respectively.

*Discussion*

Upon review, the Commission finds that Idaho's interim rate proposal is in the public interest. In effect, Idaho is requesting that the suspension period originally imposed in this proceeding be reduced from five months to three months and four months, respectively, for CP National's Oregon and Nevada operations. In view of the rate reduction and the consent of the sole customer, as well as the two intervening state commissions, we shall grant the requested waivers of the Commission's regulations and shall allow Idaho to collect the proposed interim rates, subject to refund as conditioned below, in lieu of the originally filed and suspended rates pending consideration of the offer of settlement.[3] This order, however, shall be without prejudice to our subsequent determinations on the merits of the settlement proposal. If we should disapprove the settlement, Idaho may collect the originally filed rates, subject to refund, prospectively only from February 1, 1980, the effective date established in our original suspension order. [2] This order is further conditioned on Idaho's agreement to refund the entire interim rate with interest in the event that the settlement is disapproved.

*The Commission orders*

(A) We find good cause under Section 35.1(e) of our regulations, to hereby grant Idaho's motion to collect proposed interim rates as conditioned by this order. Idaho's proposed interim rates shall become effective, subject to refund, on December 1, 1980 (Oregon), and January 1, 1981 (Elko).

(B) In the event that the settlement agreement submitted on December 2, 1980, is disapproved, Idaho's originally filed rates shall be collected, subject to refund, prospectively only from February 1, 1980. Collection of the interim rate is conditioned on Idaho's agreement to refund the entire amount of the interim rate collected prior to February 1, 1980, with interest, in the event that the settlement is disapproved.

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[1] *See* Attachment A for rate schedule designations.

[2] *See, Missouri Public Service Company*, Docket No. ER80–108, Order issued August 22, 1980.

[3] We find that Idaho's motion is more properly treated as a request under § 35.1(e) to collect a rate other than the filed rate rather than a request to file a new rate under § 35.17(b), and we shall so treat it.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

**Idaho Power Company—Docket No. ER80–492**

*Rate Schedule Designations*

*Designations and Other Party:*

(1) Supplement No. 6 to Rate Schedule FPC No. 57 (Supersedes Supplement No. 5 to Rate Schedule FPC No. 57)—CP National—Oregon.

(2) Supplement No. 5 to Supplement No. 1 to Rate Schedule FPC No. 30 (Supersedes Supplement No. 4 to Supplement No. 1 to Rate Schedule FPC No. 30)—CP National—Nevada.

[FR Doc. 81–490 Filed 1–6–81; 8:45 am]

BILLING CODE 6450–85–M

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**[Docket No. RP81–17–000]**

## Midwestern Gas Transmission Co.; Order Accepting for Filing and Suspending Proposed Rate Increase, Subject to Conditions, and Establishing Procedures

Issued: December 31, 1980.

On December 1, 1980, Midwestern Gas Transmission Company (Midwestern) filed revised tariff sheets [1] reflecting a general rate increase under Section 4(e) of the Natural Gas Act designed to increase jurisdictional revenues by approximately $3,775,530 annually. The increased rates, with a proposed effective date of January 1, 1981, are based on actual costs for the twelve months ending August 31, 1980, as adjusted for known and measurable changes in costs which are expected to be incurred by the end of the test period, May 31, 1981.

Midwestern proposes an overall rate of return of 13.38%, including a return on common equity capital of 14.75%, and states that the increased rates are necessary to recover increased operation and maintenance expenses and because of a projected decrease in sales volumes.

Midwestern's pipeline is geographically divided into two systems, a northern and a southern system. A separate cost of service is computed for each system and Midwestern files separate tariff sheets for each. The revised rates will increase Midwestern's revenues from its Southern System by $4,870,087, and decrease revenue from its Northern System by $1,094,557.

Based upon a review of Midwestern's filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we will accept the revised tariff sheets for filing and suspend their effectiveness subject to refund and to the conditions set forth below.

In a numnber of suspension orders [2] the Commission has addressed the considerations underlying its policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where the preliminary study leads the Commission to believe that the filing may be unjust or unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here with respect to the tariff sheets for the southern system.[3] Accordingly, we shall suspend the southern system's tariff sheets for a period of five months permitting such rates to become effective, subject to refund thereafter, on June 1, 1981.

Insofar as the tariff sheets pertaining to the northern system are concerned,[4] the Commission finds that circumstances warranting a shorter suspension than the maximum statutory period are present. More specifically, Midwestern has filed for an overall revenue decrease of $1,094,557 for its northern system. The Commission concludes that the northern system customers should presently benefit from this decrease rather than be denied such benefits by suspending these rates for the full five months. Therefore, the Commission will suspend these tariff sheets to become effective on January 1, 1981. Waiver of the Commission's notice requirements is granted in order to allow the rates to go into effect January 1, 1981.

The Commission notes that Midwestern's filing for its entire system contains costs associated with certain uncertificated facilities. Inclusion of costs associated with uncertificated facilities is inconsistent with § 154.63(e)(2)(ii) of the Commission's Regulations. Accordingly, acceptance for filing would require waiver of that rule. We find that good cause exists to accept Midwestern's filing, with the condition that on or before July 1, 1981, Midwestern file revised tariff sheets to reflect elimination of facilities not in service on or before the end of the test period, June 1, 1981.

*The Commission Orders:*

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the rates proposed by Midwestern.

(B) Pending hearing and decision, Midwestern's proposed Fifteenth Revised Tariff Sheet No. 5A to Third Revised Volume No. 1 and Fourth Revised Sheet No. 37 to Original Volume No. 2 are accepted for filing and suspended until January 1, 1981, when they may become effective. Waiver of the notice requirements is granted to allow the January 1, 1981 effective date.

(C) Pending hearing and decision, Midwestern's proposed Twenth-Ninth Revised Sheet No. 5 to Third Revised Volume No. 1 and First Revised Sheet Nos. 64F and 64G to Original Volume No. 2 are accepted for filing and suspended until June 1, 1981, when they may become effective, subject to refund.

(D) Waiver of § 154.63(e)(2)(ii) is granted with respect to the tariff sheets accepted in Ordering Paragraphs (B) and (C) upon the condition that Midwestern file substitute revised tariff sheets on or before June 1, 1981, to reflect removal of costs associated with facilities not certificated and in service at the end of the test period, June 1, 1981, provided that Midwestern shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

(E) The Commission Staff shall prepare and serve top sheets on all parties on or before April 1, 1981.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of Staff's top sheets in a hearing

[1] Twenty-Ninth Revised Sheet No. 5, Fifteenth Revised Sheet No. 37, First Revised Sheet Nos. 64F and 64G to Original Volume No. 2 of Midwestern's FERC Gas Tariff.

[2] *E.g., Valley Gas Transmission, Inc.*, Docket No. RP80–98 (August 22, 1980) (one day suspension); *Great Lakes Gas Transmission Company*, Docket No. RP80–134 (September 24, 1980) (five month suspension).

[3] Twenty-Ninth Revised Sheet No. 5 to Third Revised Volume No. 1 and First Revised Sheet Nos. 64F and 64G to Original Volume No. 2.

[4] Fifteenth Revised Sheet No. 5A to Third Revised Volume No. 1 and Fourth Revised Sheet No. 37 to Original Volume No. 2.

room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 81-491 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP81-74-000]

### Northwest Pipeline Corp., Petition for a Declaratory Order

December 30, 1980.

Take notice on November 26, 1980 Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP81-74-000 a petition for a declaratory order pursuant to Section 1.7(e) of Commission's Rules of Practice and Procedure (18 CFR 1.7 (c)) determining prudence of proposed facilities, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner requests a Commission determination of the prudence of proposed construction of facilities in Wyoming for carbon dioxide and hydrogen sulfide removal in a standard acid gas removal system coupled with sulphur recovery, and a cryogenic rejection of nitrogen, helium, and trace components to yield a high Btu gas product. The planned gas processing facility is projected by Petitioner to recover approximately 80,000 Mcf per day of pipeline quality gas from 400,000 Mcf per day of raw gas feed extrated from reserves in the LaBarge Anticline below 12,000 feet, located in the Tip Top Field in southwest Wyoming. Petitioner's present estimated captial cost of the proposed facilities is $340,000,000 with operational completion scheduled for 1984.

Petitioner contends that its costs associated with processing natural gas to pipeline quality, as define in the Commission's Regulations, Section 271.1104 (c) (4) (i), promulgated by Order No. 94 (Docket No. RM80-47) should be deemed prudent under the Natural Gas Act and the Natural Gas Policy Act of 1978. Petitioner requests an order declaring such costs prudent so as to permit Petitioner to include such costs in its rates. Petitioner contends that without prior assurance of rate coverage for construction and operational costs of the proposed facilities, the risk of inability to recover such costs is unreasonable.

Petitioner maintains that the proposed project provides a means to enhance United States' energy supplies by converting a large reserve of undeveloped low quality natural gas into a valuable energy product. Further, Petitioner states that the project would also provide a carbon dioxide resource which may be employed for enhanced oil recovery in western oil fields and that the result can be accomplished through the application of proven processes now available commercially. It is asserted that in comparison to other substitute sources of natural gas, the upgrading of this low Btu gas resource warrants development.

Any person desiring to be heard, or to make any protest with reference to said petition should, on or before January 30, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in hearing therin must file a petition to intervene in accordance with the Commission's Rules.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 81-492 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

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## ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51122; FRL 1603-4]

### Certain Chemicals; Toxic Substances Premanufacture Notices

*Correction*

In FR Doc. 80-28010 appearing on page 60003 in the issue of Thursday, September 11, 1980, on page 60006, second column, the third line from the botton, above the table, should read as set forth below.

"Solubility— > 10 g/1 in water 60°>."

BILLING CODE 1505-01-M

[RD-FRL 1722-2; Docket No. ECAO-CD-79-1]

### Air Quality Criteria for Particulate Matter and Sulfur Oxides; Meeting

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of public meeting.

**SUMMARY:** In the **Federal Register** of November 7, 1980 (45 FR 74047), the U.S. Environmental Protection Agency (EPA) gave notice of a number of meetings to help further its preparation of a second external review draft of a revised air quality criteria document for particulate matter and sulfur oxides ($PM/SO_x$). The November 7, 1980 notice contains general information concerning the purpose and conduct of these meetings. This notice announces the fifth in that series of meetings.

**SUBJECT:** The meeting will concern both Chapter 14 (Epidemiological Studies of the Effects of Atmospheric Concentrations of Sulfur Dioxide and Particulate Matter on Human Health), and an additional section which will serve to integrate the four chapters (11-14) dealing with health effects, to be included in Chapter 1 (Executive Summary).

**DATES:** The fifth meeting is scheduled to be held on January 12, 13, and 14, 1981, beginning at 9:00 a.m.

**LOCATION:** The meeting of January 12, 13, and 14, 1981 will be held at the Holiday Inn, 15-501 By-pass, Chapel Hill, North Carolina 27514. Reservations can be made by calling 800/238-8000.

**FOR FURTHER INFORMATION CONTACT:** Robert Bauman, Deputy Director, Environmental Criteria and Assessment Office, (MD-52), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone 919/541-4172.

Dated: December 31, 1980.

**Richard M. Dowd, Ph.D.,**

*Acting Assistant Administrator for Research and Development.*

[FR Doc. 81-608 Filed 1-6-81; 8:45 am]

BILLING CODE 6560-35-M

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## FEDERAL MARITIME COMMISSION

### Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements

and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 27, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operators to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: LM-65. Filing Party: C. P. Lambos, Lorenz, Finn, Giardino & Lambos, The Cunard Building, 25 Broadway, New York, New York 10004. Summary: Agreement No. LM-65 is the collectively-bargained Job Security Program Agreement between steamship carriers operating on the North Atlantic, South Atlantic and Gulf Coasts and the International Longshoremen' Association, AFL-CIO, covering the period October 1, 1980, through September 30, 1983.

Agreement No.: LM-66. Filing Party: C. P. Lambos, Lorenz, Finn, Giardino & Lambos, The Cunard Building, 25 Broadway, New York, New York 10004. Summary: Agreement No. LM-66 is the collectively-bargained Tonnage Assessment Agreement between New York Shipping Association and the International Longshoremen' Association, AFL-CIO, covering the period October 1, 1980, through September 30, 1983.

Agreement No.: T-3938. Filing Party: David V. Ainsworth, Senior Counsel, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612. Summary: Agreement No. T-3938 between the City of Los Angeles (City) and American President Lines, Ltd. (APL), consists of Permit No. 441 granted by City to APL. Under the permit APL will continue to use the marine terminal facilities it uses under Permit No. 168 (FMC Agreement No. 8325) while the City improves and constructs a new marine facility at Berths 87 to 93 C. The term of the agreement is 20 years. Compensation paid to City is based upon the sharing of City terminal tariff revenues for dockage, wharfage, demurrage, storage, etc. APL guarantees a minimum sum equaling wharfage revenue applicable under City's terminal tariff on a stated number of tons. Sharing of revenue changes to 75 percent to APL and 25 percent to City once APL's thoughput in any year exceeds a stated "revenue tonnage breakpoint." APL's minimum guarantee and the revenue tonnage breakpoint increases each five years, based upon a projected 6 percent per annum increase in APL's tonnage throughput. In computing minimum guaranteed throughput and revenue tonnage breakpoint in any year following commencement of the new terminal, the first 600,000 tons attributable to APL's customers are excluded. The agreement also provides that APL will compensate City for the use of four terminal cranes at the annual rate of 13.5 percent of the total cost of such cranes. The agreement will supersede Permit No. 168 FMC Agreement No. 8325.

Agreement No.: 9721-6. Filing Party: David Strain, Lillick, McHose & Charles, Tow Embarcadero Center, San Francisco, California 94111. Summary: Agreement No. 9721-6, between Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui-O.S.K. Lines, Ltd., Japan Line (U.S.A.) Ltd., Kerr Steamship Co., Inc., Williams-Dimond Roundtree Agencies, Inc., Williams, Dimond & Co., and Lilly Shipping Agencies, amends the proponents' basic agreement providing for the establishment of two corporations, Los Angeles Container Terminal, Inc., and the Oakland Container Terminal, Inc., to carry on terminal services as set forth in the basic agreement. The purpose of the modification is to change the name of Japan Line (New York) Ltd. to Japan Line (U.S.A.) Ltd. The reason for the change is that Japan Line (U.S.A.) Ltd., is in the process of dissolution, and its assets and participation as a member of the agreement will be assumed by its sole shareholder, Japan Line (New York) Ltd., a New York Corporation. This New York corporation will change its name to the subsidary's former name, that is, Japan Line (U.S.A.) Ltd. The amendment results in no change in beneficial ownership.

By Order of the Federal Maritime Commission.

Dated: December 31, 1980.

**Francis C. Hurney,**

*Secretary.*

[FR Doc. 81-506 Filed 1-6-81; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Cokato Bancshares, Inc.; Formation of Bank Holding Company

Cokato Bancshares, Inc., Cokato, Minnesota, 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 85 per cent or more of the voting shares of State Bank of Cokato, Cokato, Minnesota. 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 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 29, 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 30, 1980.

**James McAfee,**

*Assistant Secretary of the Board.*

[FR Doc. 81-494 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

### Commerce Southwest Inc.; Acquisition of Bank

Commerce Southwest Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The Farmers and Merchants National Bank of Kaufman, Kaufman, Texas. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 28, 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 30, 1980.

**James McAfee,**

*Assistant Secretary of the Board.*

[FR Doc. 81-497 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

### Georgia Bancshares, Inc.; Acquisition of Bank

Georgia Bancshares, Inc., Macon, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of The Farmers National Bank of Monticello, Monticello, Georgia. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 27, 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 30, 1980.

James McAfee,

*Assistant Secretary of the Board.*

[FR Doc. 81-485 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

## Steel City Bancorporation; Formation of Bank Holding Company

Steel City Bancorporation, Chicago, Illinois, 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 The Steel City National Bank of Chicago, Chicago, Illinois. 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 January 28, 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 30, 1980.

James McAfee,

*Assistant Secretary of the Board.*

[FR Doc. 81-486 Filed 1-6-81; 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 section 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 requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than January 29, 1981.

A. *Federal Reserve Bank of Boston,* (Richard E. Randall, Vice President), 30 Pearl Street, Boston, Massachusetts 02106:

1. Industrial National Corporation, Providence, Rhode Island (mortgage banking activities; Utah): to engage through its indirect subsidiary, Mortgage Associates, Inc., in the origination and sale of residential mortgage and servicing of residential mortgage loans. These activities would be conducted from a new office in Murray, Utah, servicing the following Utah counties: Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Toole, and Weber.

2. Industrial National Corporation, Providence, Rhode Island (mortgage banking activities; Arizona): to engage through its indirect subsidiary, Mortgage Associates, Inc., in the origination and sale of residential mortgages and servicing of residential mortgage loans. These activities would be conducted from a new office in Lake Havasu City, Arizona, servicing Mohave County, Arizona.

B. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

Manufacturers Hanover Corporation, New York, New York (commercial leasing and financing activities; North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee and Virginia): to engage, through its subsidiary Manufacturers Hanover Leasing Corporation in leasing real property on a full payout basis, acting as agent, broker or adviser in leasing such property, making or acquiring for its own account or for the account of others loans and other extensions of credit with respect to real property, and servicing such leases, loans and other extensions of credit, as permitted under Sections 225.4(a) (1), (3), and (6) of the Board's Regulation Y. These activities are proposed to be conducted from the existing office of Manufacturers Hanover Leasing Corporation located in Atlanta, Georgia, and serving the states of North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee and Virginia.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, December 31, 1980.

James McAfee,

*Assistant Secretary of the Board.*

[FR Doc. 81-496 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

## Rules of Organization

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Technical amendments.

**SUMMARY:** The Secretary of the Board has approved technical amendments to the Board's Rules of Organization to reflect organizational changes. The amendments will bring up to date descriptions of the functions of various offices and divisions of the Board.

**EFFECTIVE DATE:** December 31, 1980.

**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:** Effective December 31, 1980, section 3 of Rules of Organization is revised as follows:

### Section 3—Central Organization

The Board's central organization consists of the members of the Board and the following Offices, Divisions, and Officials:

(a) *Office of Board Members* consists of the members of the Board, Assistants,

and Special Assistants to the Board assigned to public affairs and Congressional liaison.

(b) *Office of Staff Director for Monetary and Financial Policy* is responsible for preparation of position papers and other documents on monetary policy issues, including issues relating to open market, discount, and reserve requirement policy; performance of Secretariat functions for the Federal Open Market Committee, coordination of regulatory and statistical issues closely related to monetary policy; liaison with the trading desk at the Federal Reserve Bank of New York in connection with open market operations; liaison with Treasury or other agencies in the domestic financial area; coordination with the System Account Manager and with the Treasury on foreign exchange market operations; Eurodollar and international banking policy issues; coordination of analysis and development of options for Board consideration with regard to foreign exchange policies and the international payments mechanism; and appropriate staff coordination with other agencies in these areas.

The Office also reviews and coordinates statistical and regulatory reports required by the Board of banks and bank holding companies; and performs Secretariat functions for the Depository Institutions Deregulation Committee.

(c) *Office of Staff Director for Federal Reserve Bank Activities* is responsible for overseeing the Division of Federal Reserve Bank Operations, assisting the Board's Committee on Federal Reserve Bank Activities, and coordinating the functions of other Board Divisions that relate to Federal Reserve Bank matters. The responsibilities of this office also include all Reserve Bank director matters, coordination of the annual evaluation program for Federal Reserve Banks, the Federal Reserve System's program for emergency preparedness, and representing the Board in activities pertaining to Bank operational matters in meetings with foreign central banks and other United States Government agencies.

(d) *Office of Staff Director for Management* is responsible for the planning and coordination of staff operations and organization and for resource management, and supervision of the following functions: Board building administration and operations, Board budget and accounting activities, data processing, personnel-related activities, Equal Employment Opportunity, and contingency planning operations.

(e) *Office of the Secretary*, headed by the Board's Secretary, coordinates and handles items requiring Board action, including actions under delegated authority; prepares agenda for Board meetings; implements actions taken at Board meetings; prepares, circulates and indexes minutes of the Board; has responsibility for the Board's Regulatory Improvement Project; provides liaison at the staff level with the Federal Advisory Council and ad hoc groups of the Reserve Banks; makes arrangements for individuals and groups visiting the Board; maintains custody of and provides reference service to official records of the Board; handles correspondence and public information requests; secures passports and visas for official foreign travel of System personnel; and provides relief secretarial and stenographic services.

(f) *Legal Division*, headed by the Board's General Counsel, advises the Board in carrying out its statutory and regulatory responsibilities by the preparation of Board decisions, regulations, rules, instructions and legal interpretations of statutes and regulations administered by the Board, represents the Board in civil litigation and administrative proceedings, assists other Divisions in fulfilling their responsibilities in such areas as contracting, fiscal agency activities, Federal Reserve Bank matters, labor law, personnel, supervisory enforcement matters, and prepares testimony or comments on proposed legislation.

(g) *Division of Research and Statistics.* * * *

(h) *Division of International Finance.* * * *

(i) *Division of Federal Reserve Bank Operations*, headed by a Director, advises and assists the Board with respect to matters concerning the planning and programs for operations of the Federal Reserve Banks. It provides an appraisal of Reserve Bank building programs; provides analysis and recommendations for Board policy in the payments mechanism area; provides an appraisal of Reserve Bank communication and automation plans and proposals; and maintains liaison with various interested parties on payments mechanism matters.

The Division is responsible for financial examinations and operation reviews of Federal Reserve Bank functions including: protection, fiscal agency, open market, check processing, data processing, communications, coin and currency, audit, and various staff functions. The Division administers an expense control and budgeting system for collection and analysis of budget and expense data; prescribes accounting principles, standards and related requirements to be followed by the Reserve Banks; and provides certain centralized financial accounting services. The Division also maintains liaison with the Treasury and other Government agencies and with various interested parties on matters related to Reserve Bank operation within its area of responsibility. The Division also coordinates the printing and distribution of Federal Reserve notes and is jointly responsible with the Bureau of the Mint for the production and distribution of coin.

j. *Division of Banking Supervision and Regulation*, headed by a Director, coordinates the bank supervisory functions of the System and evaluates the examination procedures of the Reserve Banks; exercises general supervision of the commercial and fiduciary activities of State member banks; administers the supervisory features of laws and regulations relating to affiliates and bank holding companies, supervises various foreign banking activities of member banks and foreign banking and financing corporations; administers the public disclosure provisions of the Securities Exchange Act of 1934, as amended, in their application to State member banks, and the provisions of the Act giving responsibility to the Board for regulating security credit transactions; administers the pertinent provisions of the Financial Institutions Act of 1966, and amendments contained in the Financial Institutions Regulatory and Interest Rate Control Act of 1978 in their application to State member banks, bank holding companies, nonbank subsidiaries, Edge Act Corporations, foreign banks with domestic operations and persons related to such institutions; monitors the Currency and Foreign Transactions Reporting Act, in its application to State member banks; processes and presents to the Board applications filed pursuant to the Bank Holding Company Act of 1956, as amended, and the Bank Merger Act and various other applications submitted under the provisions of the Federal Reserve Act or related statutes; and advises the Board regarding developments in banking and bank supervisory policies and procedures.

(k) *Division of Consumer and Community Affairs*, headed by a Director, implements consumer affairs legislation for which the Board has responsibility. Its functions include drafting regulations and interpretations pursuant to the Truth in Lending Act (as amended), The Federal Trade Commission Improvements Act, the Equal Credit Opportunity Act (as

amended), the Home Mortgage Disclosure Act, the Fair Credit Billing Act, the Consumer Leasing Act and the Electronic Funds Transfer Act, for financial institutions and other firms engaged in consumer credit and leasing activities. The division also administers the Board's consumer complaint handling system, and monitors enforcement activities with regard to State member banks. The legislation enforced includes the acts already mentioned above as well as the Community Reinvestment, Fair Credit Reporting, Fair Debt Collection Practices, Fair Housing, Flood Disaster Protection, and Real Estate Settlement Procedures Acts and Regulation Q, Interest on Deposits.

(l) *Division of Personnel*, headed by a Director, is responsible for the development and implementation of Board personnel policies and programs, and advises and assists the Board and the Reserve Banks on personnel matters pertaining to the Federal Reserve Banks.

(m) *Division of Support Services*, headed by a Director, is responsible for duplication and distribution of Board publications, press releases, speeches and testimony; space management; printing, contracting, and supply services; communications; food service management; operation and maintenance of electric and mechanical systems; building and grounds maintenance; personnel and building security.

(n) *Office of the Controller*, headed by the Board's Controller, is responsible for maintaining an effective internal financial management system, including budgeting, accounting, receiving and disbursing Board funds, financial reporting, and internal auditing and operations reviews.

(o) *Division of Data Processing.* * * *

(p) *Other personnel.* * * *

Board of Governors of the Federal Reserve System, December 31, 1980.

**Theodore E. Allison,**

*Secretary of the Board.*

[FR Doc. 81-512 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

## Guardian Banks Financial Corp.; Formation of Bank Holding Company

Guardian Banks Financial Corporation, Seminole, Florida, 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 90 per cent or more of the voting shares of Guardian Bank, Seminole, Florida. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 27, 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 29, 1980.

**James McAfee,**

*Assistant Secretary of the Board.*

[FR Doc. 81-564 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

## Federal Open Market Committee; Domestic Policy Directive of November 18, 1980

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held November 18, 1980.[1]

The information reviewed at this meeting suggests that real GNP is recovering further in the fourth quarter from the sharp contraction in the second quarter, while prices on the average continue to rise rapidly. In October, industrial production and nonfarm payroll employment expanded substantially for the third consecutive month, and the unemployment rate remained around 7½ percent. The value of ratail sales changed little, following four months of recovery. The rise in the index of average hourly earnings over the first ten months of 1980 was somewhat more rapid than in 1979.

The weighted average value of the dollar in exchange markets on balance has risen further over the past month. The U.S. trade deficit was essentially unchanged in September, and the rate in the third quarter was sharply lower than that in the first half.

Growth in M–1A and M–1B moderated further in October but was still relatively rapid; growth in M–2 accelerated slightly, reflecting a pickup in expansion of its non-transactions component. From the fourth quarter of 1979 to October, growth of M–1A was in the upper part of the range set by the Committee for growth over the year ending in the fourth quarter of 1980, while growth of M–1B and M–2 was somewhat above the upper limits of their ranges. Expansion in commercial bank credit was rapid in October, although not so rapid as in August and September. Market interest rates have risen sharply in recent weeks; average rates on new home mortgage commitments have continued upward. On November 14, the Board of Governors announced an increase in Federal Reserve discount rates from 11 to 12 percent and a surcharge of 2 percentage points on frequent borrowing of large member banks from Federal Reserve banks.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation, encourage economic recovery, and contribute to a sustainable pattern of international transactions. At its meeting in July, the Committee agreed that these objectives would be furthered by growth of M–1A, M–1B, M–2, and M–3 from the fourth quarter of 1979 to the fourth quarter of 1980 within ranges of 3½ to 6 percent, 4 to 6½ percent, 6 to 9 percent, and 6½ to 9½ percent, respectively. The associated range for bank credit was 6 to 9 percent. For the period from the fourth quarter of 1980 to the fourth quarter of 1981, the Committee looked toward a reduction in the ranges for growth of M–1A, M–1B, and M–2 on the order of ½ percentage point from the ranges adopted for 1980, abstracting from institutional influences affecting the behavior of the aggregates. These ranges will be reconsidered as conditions warrant.

In the short run, the Committee seeks behavior of reserve aggregates consistent with growth of M–1A, M–1B, and M–2 over the period from September to December at annual rates of about 2½ percent, 5 percent, and 7¾ percent, respectively, or somewhat less, provided that in the period before the next regular meeting the weekly average federal funds rate remains within a range of 13 to 17 percent.

If it appears during the period before the next meeting that the constraint on the federal funds rate is inconcistent with the objective for the expansion of reserves, the Manager for Domestic Operations is promptly to notify the Chairman, who will then decide whether the situation calls for supplementary instructions from the Committee.

**Note.**—On November 26, the Committee modified the domestic policy directive adopted at its meeting on November 18, 1980, to raise the upper limit of the range for the federal funds rate to 18 percent.

[1] The record of Policy Actions of the Committee for the meeting of November 18, 1980, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

On December 5, the Committee modified the domestic policy directive adopted at its meeting on November 18, 1980, and subsequently modified on November 26, to take account of the action of the board of Governors on December 4 to raise discount rates by providing leeway for pursuit of the Committee's short-run objectives for the behavior of reserve aggregates without operations being precisely constrained in the current statement week by the 18 percent upper limit of the intermeeting range for the federal funds rate.

On December 12, the Committee modified the domestic policy directive issued on November 18, 1980, and subsequently modified on November 26 and December 5, to extend through the period before the next regular meeting leeway for pursuit of the Committee's short-run objectives for the behavior of reserve aggregates without operations being precisely constrained by the 18 percent upper limit of the intermeeting range for the Federal funds rate.

By Order of the Federal Open Market Committee, December 22, 1980.

**Murray Altman,**

*Secretary.*

[FR Doc. 81-565 Filed 1-6-81; 8:45 am]

**BILLING CODE 6210-01-M**

## GENERAL SERVICES ADMINISTRATION

### Report on Altered System Under the Privacy Act of 1974

**AGENCY:** General Services Administration.

**ACTION:** Notification of altered system of records.

**SUMMARY:** The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to alter a system of records that is maintained by GSA. The system of records, Ridesharing System GSA/REGADM-6, will be altered by increasing the number of individuals covered by the system. Altered system reports were filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on November 3 and December 1, 1980.

**DATES:** Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before February 6, 1981. The amendment shall become effective as proposed without further notice on February 6, 1981, unless comments are received that would result in a contrary determination.

**ADDRESSES:** Address comments to General Services Administration (HRAR), Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Hiebert, Records Management Branch, Information Management Division, (202) 566-0673.

**BACKGROUND:** The Regional Administrator's system of records, Council of Governments Carpool System is being altered by increasing the number of individuals covered by the system. The present system covers Federal employees in the Washington, D.C. metropolitan area who volunatarily participate in the system. The individuals to be added are employees in ten other regions who voluntarily participate in the system. The system of records notice GSA/REGADM-6, Council of Governments Carpool System, was last published in the **Federal Register** on August 29, 1980, 45 FR 57878.

The amended system of records notice GSA/REGADM-6 will read as follows:

**GSA/REGADM-6 (23-00-0102)**

**SYSTEM NAME:**

Ridesharing system.

**SYSTEM LOCATION:**

The system is located in the following regional offices:

GSA National Capital Region: Public Buildings Service (WP), GSA Regional Office Building, 7th and D Sts. SW., Washington, D.C. 20407.

GSA Region 1: Transportation and Public Utilities Service, Motor Equipment Division (1TM), John W. McCormack Post Office and Courthouse, Boston, MA 02109.

GSA Region 2: Transportation and Public Utilities Service, Transportation and Travel Management Division (2TT), 26 Federal Plaza, New York, NY 10007.

GSA Region 3: Federal Supply Service, Office of Personal Property, Motor Equipment Division (3FM), Ninth and Market Streets, Philadelphia, PA 19107.

GSA Region 4: Transportation and Public Utilities Service, Motor Equipment Division (4TM), Richard B. Russell Federal Bulding, 75 Spring St. SW., Atlanta, GA 30303.

GSA Region 5: Transportation and Public Utilities Service, Motor Equipment Division (5TM), Federal Building, 230 S. Dearborn Street, Chicago, IL 60604.

GSA Region 6: Administrative Services Division (6BR), GSA Regional Office Building, 1500 East Bannister Road, Kansas City, MO 64131.

GSA Region 7: Transportation and Public Utilities Service, Motor Equipment Division (7TM), 819 Taylor Street, Fort Worth, TX 76102.

GSA Region 8: Administrative Services Division (8BR), GSA Regional Office Building, Building 41, Denver Federal Center, Denver, CO 80225.

GSA Region 9: Transportation and Public Utilities Service, Transportation and Travel Management Division (9TT), 525 Market Street, San Francisco, CA 94105.

GSA Region 10: Transportation and Public Utilities Service (10T), GSA Center, Auburn, Washington 98002.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees who voluntarily participate in the program.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

As used in this system notice, the term "ridesharing" includes carpool and vanpool. The system contains ridesharing applications which may include the applicants name, home address, and business address and telephone number; individual lists which may include names and business information; and master lists which may incude all of the information solicited.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Federal Property and Administrative Services Act of 1949, as amended and Air Pollution Prevention and Control Act, 42 U.S.C., Chap. 15B.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

a. *Ridesharing (except for vanpools).* GSA receives ridesharing applications from GSA employees or from another Federal agency for non-GSA employees. GSA, with one exception, transfers the applications without processing to the local Council of Government (COG) activity. COG processes the applications through their computer. The exception, Region 6, completes both the initial processing and the computer processing in-house. Computerized individual lists and master lists are prepared showing compatible ridesharing applicants. The individual lists are sent from COG, through GSA, to employer agencies for distribution to the participating employees or mailed by COG directly to the applicant. Master lists are retained by GSA and/or COG.

b. *Vanpool.* The GSA regional offices provide the main coordinators for the vanpooling program. Vanpool applications are collected by a coordinator for each agency located on or near the GSA regional activity. Each coordinator sends the applications to GSA. GSA manually processes these applications and returns a list of compatible vanpoolers to the agency coordinator, who keeps a master listing for their agency and sends the listing on

to the applicant. GSA maintains a master listing of all agencies' applicants.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Ridesharing applications are on paper forms. Individual and master ridesharing lists are in the form of computer printouts and/or typed pages.

**RETRIEVABILITY:**

Individual printouts and applications are filed by name or zip code. Master lists are organized alphabetically by name and by location of home address or by zip code.

**SAFEGUARDS:**

Applications and master lists are filed in lockable files.

**RETENTION AND DISPOSAL:**

Except for vanpool applications, ridesharing applications are transferred upon receipt to COG, where applicable, and destroyed upon transcription to machine storage. Master lists are destroyed upon receipt of updated lists. Individual vanpool applications are retained until applicant has joined a vanpool or until applicant indicates no further interest in vanpooling. At this time, the application is destroyed. Master lists are constantly being purged.

**SYSTEM MANAGER(S) AND ADDRESS:**

The following officials are responsible for the applicable regional system:

GSA National Capital Region: Assistant Regional Administrator, Public Buildings Service (WP), GSA Regional Office Building, 7th and D Sts. SW., Washington, DC 20407.

GSA Region 1: Energy Transportation Coordinator, Motor Equipment Division, Transportation and Public Utilities Service (1TM), John W. McCormack Post Office and Courthouse, Boston, MA 02109.

GSA Region 2: Director, Transportation and Travel Management Division, Transportation and Public Utilities Service (2TT), 26 Federal Plaza, New York, NY 10007.

GSA Region 3: Director, Motor Equipment Division, Office of Personal Property (3FM), Ninth and Market Streets, Philadelphia, PA 19107.

GSA Region 4: Chief, Management Services Branch, Motor Equipment Division, Transportation and Public Utilities Service (4TMM), Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, GA 30303.

GSA Region 5: Chief, Management Services Branch, Motor Equipment Division, Transportation and Public Utilities Service (5TMM), Federal Building, 230 S. Dearborn Street, Chicago, IL 60604.

GSA Region 6: Chief, Office Services Branch, Administrative Services Division, Office of Administration (6BRO), GSA Regional Office Building, 1500 East Bannister Road, Kansas City, MO 64131.

GSA Region 7: Director, Motor Equipment Division, Transportation and Public Utilities Service (7TM), 819 Taylor Street, Fort Worth, TX 76102.

GSA Region 8: Chief, Office Services Branch, Administrative Services Division, Office of Administration (8BRO), GSA Regional Office Building, Building 41, Denver Federal Center, Denver, CO 80225.

GSA Region 9: Energy Transportation Coordinator, Transportation and Travel Management Division, Transportation and Public Utilities Service (9TT), 525 Market Street, San Francisco, CA 94105.

GSA Region 10: Assistant Regional Administrator, Transportation and Public Utilities Service (10T), GSA Center, Auburn, Washington 98002.

**NOTIFICATION PROCEDURES:**

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the system manager.

**RECORD ACCESS PROCEDURES:**

Requests from individuals for access to records should be addressed to the system manager and should include full name and address.

**CONTESTING RECORD PROCEDURES:**

GSA rules for contesting the contents of the records and for appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

**RECORD SOURCE CATEGORIES:**

Federal employees who desire to avail themselves of the benefits of the ridesharing program.

Dated: December 23, 1980.

**Ben Schiffman,**

*Director of Administrative Services.*

[FR Doc. 81–364 Filed 1–6–81; 8:45 am]

**BILLING CODE 6820–34–M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Wyoming and Montana; Intent To Hold Public Hearing on Federal Coal Leasing Target for Powder River Coal Production Region

**AGENCY:** Bureau of Land Management.

**ACTION:** Rescheduling of public hearing.

**SUMMARY:** This notice amends the notice of the December 3, 1980, **Federal Register** Vol. 45, No. 234, Page 80190.

The public hearing scheduled for December 18, 1980, in Billings, Montana, at the Northern Hotel is being rescheduled. The public hearing will be held January 27, 1981, in the Northern Hotel at 7 p.m.

Oral and written comments on the federal coal leasing target for the Powder River Coal Production Region will be accepted at the public hearing. Written comments should be addressed to the Bureau of Land Management, Wyoming State Director, at the address below.

**DATE:** Written comments will be accepted until the close of business January 17, 1981. Public hearing will be held in Billings, Montana, at the Northern Hotel, starting at 7 p.m. on January 27, 1981.

**ADDRESS:** Written comments on the proposed lease target should be addressed to Bureau of Land Management, Wyoming State Director, P.O. Box 1828, Cheyenne, Wyoming, 82001.

For further information contact: Stan McKee, Project Manager, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming, 82001, (307) 778–2220.

**Michael J. Penfold,**

*State Director.*

[FR Doc. 81–443 Filed 1–6–81; 8:45 am]

**BILLING CODE 4310–84–M**

## Office of the Secretary

### Outer Continental Shelf Advisory Board: Annual Meeting, Policy Committee, Scientific Committee and Regional Technical Working Groups; Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92–463, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A–63, Revised.

There will be an annual meeting of the Department of the Interior's OCS Advisory Board in Charleston, South Carolina, February 11, 12 and 13, 1981, Mills House Hotel (803/577–2400), Meeting and Queen Streets. The purpose of the Board is to provide advice to the Secretary of the Interior and other officers of the Department on the discretionary functions of the Outer Continental Shelf Lands Act, as amended, including all aspects of leasing, exploration, development and

protection of the resources of the Outer Continental Shelf.

The OCS Advisory Board has three components: (1) OCS Policy Committee; (2) Scientific Committee; and (3) Six Regional Technical Working Groups. Each of the above groups will be holding individual meetings and the entire Board will meet in plenary session on February 12th.

A calendar for the meeting follows:

*February 11*
OCS Policy Committee Meeting (for agenda see #1 below) 8:00 a.m.–5:30 p.m.
Scientific Committee (for agenda see #2 below) 8:30 a.m.–5:30 p.m.

*February 12*
Plenary Session: OCS Advisory Board (for agenda see #3 below) 8:00 a.m.–12:00 p.m.
Scientific Committee (for agenda see #2 below) 1:30 p.m.–5:30 p.m.
Regional Technical Working Groups (all) (for agendas see #4–#9 below) 1:30 p.m.–5:30 p.m.

*February 13*
Scientific Committee (for agenda see #2 below) 8:30 a.m.–12:30 p.m.
Regional Technical Working Groups (all) (for agenda see #4–#9 below) 8:30 a.m.–12:30 p.m.

The principal subjects to be covered by the Board and the various Committees are as follows:

(1) OCS Policy Committee (Feb. 11)
A. 5-Year Program Subcommittee Report
B. Relationships Between RTWG's and Policy Committee
C. OCS Safety Study
D. Review of CEIP National Strategy Report
E. Delays created by OCSLAA
[For information contact Alan Powers 202/343–9314]

(2) Scientific Committee (Feb. 11, 12, 13)
A. Disciplinary Subgroup's Reports
B. Peer Review Discussions
C. BLM Contracting Procedures Review
D. Role of Environmental Studies in the OCS Leasing Program
[For information contact Piet deWitt 202/343–7744

(3) OCS Advisory Board [Plenary Session] (Feb. 12)
A. Committee Reports
B. Discussion of Committee Roles & Relationships
C. Arctic Technology
D. 5-Year OCS Oil & Gas Leasing Program
[For information contact Alan Powers 202/343–9314]

(4) Gulf Technical Working Group (Feb. 12)
A. Update on Gulf Sales
B. Regional Transportation Management Plan
C. 1981 Activities
[For information contact Sydney Verinder 504–589–8541]

(5) South Atlantic Technical Working Group (Feb. 12)
A. Update on South Atlantic Sales
B. Regional Transportation Management Plan
C. 1981 Activities
* Joint Gulf-South Atlantic Meeting (Feb. 13)
A. Status of National & Regional Studies Plans
B. Transportation Planning Methodologies Comparison
C. Coast Guard Port Access Study
D. CZM Consistency Certification Procedures
[For more information contact Sydney Verinder 504/589–8541]

(6) Mid-Atlantic Technical Working Group (Feb 13)
A. Draft Hudson Canyon Transportation Management Plan
[For information contact Richard Barnett 212/264–2960]
* Joint Mid Atlantic-North Atlantic Meeting (Feb. 12)
A. Ongoing BLM Funded Studies
[For information contact Richard Barnett 212/264–2960]

(7) North Atlantic Technical Working Group (Feb. 13)
A. Recommendations for Long-Term Monitoring on Georges Bank

(8) Alaska Technical Working Group
A. Phase I Status Report on Sale 55
B. Review FY 82 Technical Development Proposals
[For information contact Gordy Euler 907–276–2955]

(9) Pacific Technical Working Group
A. Transportation Planning Subcommittee Report
B. Call for Nominations for Sale 73
C. Status, Sales 53, 68
D. Regional Environmental Studies Plans for FY 82, 83
[For information contact Ellen Aronson 213/688–7234]

The meeting is open to the public. Those persons who are interested may make oral or written statements to a Committee. Such requests should be made to the contact listed for each particular committee. Requests should be made no later than January 29, 1981.

Minutes for the OCS Policy Committee and the OCS advisory Board Plenary Session will be available for public inspection and copying at the Office of OCS Program Coordination, Room 5150, Department of the Interior, Washington, D.C.

Minutes for the Scientific Committee and the Regional Technical Working Groups will be available for public inspection and copying in Room 5640, Bureau of Land Management, Department of the Interior, Washington, D.C. or the appropriate Bureau of Land Management OCS Field Offices. Availability of the minutes will be eight weeks after the meeting.

Dated: December 31, 1980.

**Alan D. Powers,**

*Director, Office of OCS Program Coordination.*

[FR Doc. 81-508 Filed 1-6-81; 8:45 am]

BILLING CODE 4310-10-M

## INTERSTATE COMMERCE COMMISSION

**[ICC Order No. 73–A Under Service Order No. 1344]**

### Consolidated Rail Corp.; Rerouting Traffic

Upon further consideration of I.C.C. Order No. 73, and good cause appearing therefor:

*It is ordered,* I.C.C. Order No. 73 is vacated.

This order shall become effective December 17, 1980, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 17, 1980.

Interstate Commerce Commission.

**Joel E. Burns,**

*Agent.*

[FR Doc. 81-431 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

**[Ex Parte No. 311]**

### Expedited Procedures for Recovery of Fuel Costs; Decision

Decided: December 23, 1980.

In our decisions of December 9, 16, 1980, a 14-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We order that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 14.8-percent. Accordingly, we are authorizing that the surcharge for this traffic is increased to 14.5-percent. All owner-operators are to receive compensation at this level.

No change is authorized on the 2.5-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, nor the 1.5-percent surcharge for United Parcel Service. However, the bus carrier surcharge is increased to 5.5-percent.

There will be no decision next week. The next decision will be issued the week of January 4, 1981.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over

transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

*It is ordered:* This decision shall become effective Friday 12:01 a.m. December 26, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioners Clapp and Alexis absent and not participating.

**James H. Bayne,**

*Acting Secretary.*

**Appendix.—*Fuel Surcharge***

*Base date and price per gallon (including tax)*

January 1, 1979 ..... 63.5¢

*Date of current price measurement and price per gallon (including tax)*

December 22, 1980 ..... 119.2¢

| | Transportation performed by— | | | |
|---|---|---|---|---|
| | Owner operator[1] | Other[2] | Bus carriers | UPS |
| | (1) | (2) | (3) | (4) |
| Average percent fuel expenses (including taxes) of total revenue | 16.9 | 2.9 | 6.3 | 3.3 |
| Percent surcharge developed | 14.8 | 2.5 | 5.5 | [3]2.3 |
| Percent surcharge allowed | 14.5 | 2.5 | 5.5 | [4]1.5 |

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-428 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

## Long- and Short-Haul Applications for Relief (Formerly Fourth Section Applications)

January 2, 1981.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before January 22, 1981.

No. 43889, Contract Marine Containers, Inc. (No. 2), for rail carriers parties to Tariff ICC CMCU 301, FMC No. 9, to establish rail-water intermodal rates on commodities in containers from rail terminals in California to European ports, by way of Charleston, SC and Richmond, VA, effective January 30, 1981. Grounds for relief-water competition.

No. 43890, Southwestern Freight Bureau, Agent, (No. B-107), increased rates on Sodium Chloride (common salt), from Louisiana and Texas origins to Stations in Official Territory. Rates are published in Supplement No. 89 to ICC SWFB 4620, and are scheduled to become effective January 29, 1981. Grounds for relief-additional revenue.

No. 43891, Southwestern Freight Bureau, Agent (No. B-109), new provisions resulting in reduced rates on Grounds Barite Blended with Iron Ore (Hematite), from, to, and between stations in Southwestern Territory. Provisions are published in Item 205, Supplement 27 to ICC SWFB 4318-A, to become effective January 21, 1981. Grounds for relief-market competition.

By the Commission.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81-430 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

**[Finance Docket No. 29549]**

## Louisiana & Arkansas Railway Co.-Exemption; Decision

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Exemption.

**SUMMARY:** The Interstate Commerce Commission exempts Louisiana & Arkansas Railway Company (L&A) from the requirement that it receive approval under 49 U.S.C. 10901(a) and 49 U.S.C. 11343(a) prior to performing operations over a segment of the Atchison, Topeka and Sante Fe Railway Company (Santa Fe) track in Dallas, TX.

**DATES:** The exemption is effective on December 31, 1980, and remains effective for 60 days thereafter, or, if an application for permanent authority is filed within this 60-day period, the exemption shall remain effective until the Commission issues its decision on the application. Petitions for reconsideration of this decision must be filed no later than January 27, 1981.

**ADDRESSES:** Send petitions for reconsideration to: (1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th Street & Constitution Ave., NW, Washington, DC 20423.

(2) Petitioner's representative: Robert K. Dreiling, Attorney for Louisiana & Arkansas Railway Company, 114 West 11th Street, Kansas City, MO 64105.

Pleadings should refer to Finance Docket No. 29549.

**FOR FURTHER INFORMATION CONTACT:** Ellen Hanson, (202) 275-7245.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Louisiana & Arkansas Railway Company (L&A), a subsidiary of the Kansas City Southern Lines, extends from Dallas, TX, through Shreveport, LA, to the Gulf Port of New Orleans, LA. Since June 6, 1977, L&A has been using the Chicago, Rock Island and Pacific Railroad Company (Rock Island) track and terminal facilities in its Cadiz Yard at Dallas, TX, in providing rail service to, from, and through the Dallas terminal.

To reach the Rock Island yard, which is situated beyond the Santa Fe yard, it is necessary that L&A operate over a portion of Sante Fe track, between mile post 53 plus 1802.2 feet and mile post 50 plus 4,100 feet, in Dallas. Santa Fe granted L&A use of such track by an agreement dated May 12, 1977. L&A began operating over the Santa Fe track under authority from this Commission in Service Order No. 1267, *Louisiana & Arkansas Railway Company Authorized to Operate Over Tracks of the Atchison, Topeka & Santa Fe Railway Company*, which became effective on May 19, 1977. This Service Order was issued on May 19, 1977, and extended through 6 amendments. The last amendment extended Service Order No. 1267 until November 30, 1980. In response to an urgent request by L&A for continuation of Service Order No. 1267, the Commission, on December 1, 1980, issued Service Order No. 1491, *Louisiana & Arkansas Railway Company Authorized to Operate Over Tracks of the Atchison, Topeka & Santa Fe Railway Company*. Service Order No. 1491 became effective on December 1, 1980, and is scheduled to expire at 11:59 p.m., December 30, 1980.

On December 9, 1980, L&A filed a statement requesting a continuance of Service Order No. 1491 beyond the December 30, 1980, expiration date. In 1979, L&A moved 20,077 carloads of freight from, to, or through the Dallas terminal. Expiration of authority provided under Service Order No. 1491 will eliminate L&A's ability to handle this traffic.

L&A has entered into agreements with both Rock Island and Santa Fe for permanent authority to use the involved facilities and trackage. L&A is in the process of preparing, and will file wih the Commission, applications for approval of those agreements and for permanent authority to operate over the Santa Fe line.[1] L&A requested that it be

[1] The acquisition, operation, and construction of a line of railroad requires the approval of the Commission under 49 U.S.C. § 10901. To obtain such approval, an application must be filed in compliance

Footnotes continued on next page

allowed to continue operating over the Santa Fe track until such applications can be filed and acted upon by the Commission.

The Staggers Rail Act of 1980 (Pub. Law No. 96-448) substantially limits the Commission's authority to issue service orders under 49 U.S.C. 11123(a) to emergency situations of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States. In a separate decision we have denied L&A's requested extension of Service Order No. 1491 because it fails to meet the new criteria established by the Staggers Act. Consequently, Service Order No. 1491 will expire as scheduled on December 30, 1980.

**Discussion and Conclusions**

A rail carrier can operate over the line of another railroad only if it has a service order to do so or has been granted a certificate under 49 U.S.C. 10901. Moreover, acquisition by a rail carrier of trackage rights over a rail line owned or operated by another rail carrier can be carried out only with the approval and authorization of the Commission under 49 U.S.C. 11343. We have already determined that L&A has not made a sufficient showing under amended section 11123(a) for issuance of a service order. Although L&A plans to file appropriate applications for permanent authority to operate over the Santa Fe track, it will be some time before such applications can be filed and acted upon. Therefore, we cannot order or affirmatively authorize L&A to perform uninterrupted operations over the Santa Fe track.

However, Congress has given us authority under 49 U.S.C. 10505 to exempt certain rail matters as a means of eliminating burdensome regulation of rail carriers. That section provides that the Commission "shall" exempt a transaction from the application of any provision of the Interstate Commerce Act when it finds that (1) continued regulation is not necessary to carry out the Rail Transportation Authority Policy in 49 U.S.C. 10101a; and (2) either (A) the transaction is of limited scope, or (B) regulation is not necessary to protect shippers from the abuse of market power.[2] Moreover, we can issue the exemption on our own initiative. 49 U.S.C. 10505(b).

We believe the instant operation satisfies the criteria of Section 10505. Exempting L&A from the filing requirement of 49 U.S.C. 10901 for a short time period will merely maintain the status quo until L&A can file and the Commission can consider appropriate applications for permanent authority to provide such service. The Commission's prior approval of L&A's operation over the small segment of Santa Fe's track is not necessary to carry out any of the 15 factors listed in the rail transportation policy of section 10101a.

The transaction is of limited scope because (1) it involves only a very short segment of track, (2) it is of limited duration, and (3) it should have no impact on any railroad employees or the operations of any other rail carrier.

Having concluded that the transaction is of limited scope, we need not determine whether prior approval of rail operations is necessary to protect shippers from the abuse of market power. We note, however, that since the temporary exemption granted here will merely allow a continuation of operations which have been in effect for over 3 years, it is unlikely that it would have any impact whatsoever on shippers. On the other hand, our failure to grant the exemption would result in a forced cessation of rail service upon which shippers have come to rely and could be detrimental to their business operations.

In light of these findings we are able to exempt this transaction. Our exemption authority provides us with the power to limit the duration of our exemptions. 49 U.S.C. 10505(c). Accordingly, this exemption is effective for 2 months only, subject to extension if and when L&A files applications for permanent authority.

To avoid any disruption in service, this exemption will become effective on December 31, 1980. Section 10505 enables us to revoke an exemption if we find the exempted provision necessary to carry out the rail transportation policy. We have found otherwise on the facts currently available to us. However, we will permit interested parties to file petitions for reconsideration alleging that grant of the exemption harms our ability to carry out the rail transportation policy. Petitions for reconsideration must be filed on or before January 27, 1981.

*Labor protection.* In granting this exemption we may not relieve a carrier of its obligation to protect the interests of employees. Amended section 10901(e) indicates that the imposition of labor protective conditions is discretionary when authority is sought, as here, to operate a line. However, approval of a trackage rights agreement under § 11343 must include the employee protective conditions set forth in *Norfolk and Western Ry. Co.-Trackage Rights-BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653 (1980). These conditions are here imposed as a condition to L&A's exercise of this exemption.

*We find*

(1) Application of the requirement of 49 U.S.C. 10901 and 49 U.S.C. 11343(a) that L&A receive prior authority to operate over the Santa Fe rail line between milepost 50 plus 4,100 feet and milepost 53 plus 1802.2 feet is not necessary to carry out the transportation policy of 49 U.S.C. 10101a.

(2) This transaction is of limited scope.

(3) This decision will not operate to relieve L&A from an obligation either (a) to provide contractual terms for liability and claims which are consistent with 49 U.S.C. 11707, or (b) to protect the interest of its employees; and does not authorize intermodal ownership that is otherwise prohibited.

(4) This decision is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

*It is ordered*

(1) Pursuant to 49 U.S.C. 10505 we exempt the operation by L&A over the Santa Fe rail line from 49 U.S.C. 10901(a) and 49 U.S.C. 11343(a), subject to the employee protective conditions imposed in *Norfolk & Western Ry. Co.-Trackage Rights-BN*, 354 I.C.C. 650 (1978), as modified by *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653 (1980).

(2) Notice of our action shall be given to the general public by delivery of the copy of this decision to the Director, Office of the Federal Register, for publication.

(3) This exemption will continue in effect for 2 months, unless revoked, or extended by further action of the Commission.

(4) This decision shall be effective at 12:01 a.m., December 31, 1980.

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Footnotes continued from last page
with the procedures established in the Commission's regulations outlined in *Construction Extension, Acquisition, or Operation of Railroad Lines*, 49 CFR Part 1120 (1979). The acquisition by a rail carrier of trackage rights over another rail line requires the prior approval of the Commission under 49 U.S.C. § 11343 in accordance with regulations established in *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*, 49 CFR 1111 (1979) (*Consolidation Procedures*). See also *Railroad Consolidation Procedures*, 363 I.C.C. 200 (1980).

[2] The Section creates two additional limitations on our broad exemption power. We may not exercise this exemption authority "(1) to authorize intermodal authority that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle". 49 U.S.C. 10505(g).

(5) Petitions to reopen this proceeding for reconsideration must be filed no later than January 27, 1981.

Decided: December 30, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam. Commissioners Alexis and Gilliam were absent and did not participate in the disposition of this proceeding.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 81-427 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-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 the date of this publication 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 on or before February 6, 1981 (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 19, 1980.

By the Commission, Review Board No. 5, members Krock, Taylor and Williams. (Board member Krock not participating).

MC-F-14340F, filed March 12, 1980. COOK-ILLINOIS CORP. (Cook) (13939 S. Cicero Ave., Crestwood, IL 60445)—CONTROL—KICKERT BUS LINES, INC. (Kickert Bus) (17800 Clyde Avenue, Lansing, IL 60438). Representative: John M. Wojcik, 2222 East Michigan Blvd., Michigan City, IN 46360. Cook, a non-carrier, seeks authority to acquire control of Kickert Bus through the purchase by Cook of all the issued and outstanding capital stock of Kickert Bus. John Benish and Lee A. Stahl, III, are the majority stockholders of Cook and will be required to join in the application as a condition to approval. Messrs. Benish and Stahl also control through stock ownership, Illinois School Bus Co., Inc., a motor common carrier pursuant to authority issued in MC-43194, which authorizes the transportation of *passengers and their baggage*, restricted to traffic originating at the point and in the territory indicated, in charter operations, from Chicago, IL, and points in IL within 25 miles of Chicago, to points in IL, IN, MI, and WI, and return. Kickert Bus holds motor common carrier authority in MC-723, which authorizes the transportation of *passengers and their baggage*, in charter operations, restricted to traffic originating in the territory indicated, from Chicago, IL, and points within 30 miles of Chicago, to points in IL, MO, IA, WI, IN, MI, OH, MN, KY, SD, ND, TN, WV, NC, AR, AL, MS, OK, VA, PA, NY, SC, LA, GA, KS, MD, MA, and DC, and return. Condition: So far as can be ascertained from the evidence of record in this proceeding, Cook-Illinois Corp. is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of this transaction, Cook-Illinois Corp. will be considered a motor carrier within the meaning of 49 U.S.C. 11348. It will, therefore, be subject to the applicable provisions of 49 U.S.C. Subtitle IV, Subchapter III of chapter 111 relating to reporting and accounting, and of 49 U.S.C. 11302 relating to the issuance of securities. Condition: Approval and authorization of this transaction is conditioned upon the prior receipt by the Commission of an affidavit signed by John Benish and Lee A. Stahl, III, stating that they are persons in control of Cook-Illinois Corp. through stock ownership, and that they join in this application. Condition: The Commission's records in MC-43194 reflect the name of the carrier as Illinois School Bus Co. Applicants refer to that carrier as Cook Charter Bus Company.

Applicants are advised to file a name change with the Commission in order to update all records. Impediment: Duplications exist between the operating rights in MC–43194 and the rights sought to be controlled by Cook in MC–723. Commission regulations at 49 CFR 1134.51 require that, where approval of an application of common control would result in the holding of duplicating operating rights, (1) one or more of the carriers holding duplicating authority must request cancellation of the duplicating authority, (2) the applicant must submit a plan and timetable for elimination of the duplications at the earliest practicable date, or (3) applicant must supply cogent or acceptable reasons why duplicate operating rights under common control should be permitted to exist. Applicants must submit within 30 days from date of publication such information as is necessary to comply with the regulations.

**Note.**—Applicants filed a securities application in FD–29442 for the issuance of notes. Due to the new monetary exemption limits of the Motor Carrier Act of 1980, this application is being dismissed.

**Note.**—Application for temporary authority has been filed.

MC–F–14331F, filed March 4, 1980. K.M.A. LEASING, INC. d/b/a WM. H. P., INC. (K.M.A.) (1342 N. Howard Street, Philadelphia, PA 19122)—PURCHASE—BURGMEYER BROS., INC.—DEBTOR IN POSSESSION, (Burgmeyer) (4059 Blanch Road, Cronwells Heights, PA 19020). Representatives: A. David Millner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006 and Nathan B. Feinstein, 12 S 12th Street, 22nd Floor, Savings Fund Bldg, Philadelphia, PA 19107. K.M.A. seeks to purchase the operating rights of Burgmeyer. William H. Pflaumer who controls K.M.A. through ownership of all capitol stock, seeks to acquire control of said rights through this transaction. The interstate operating rights to be acquired by K.M.A. are contained in Burgmeyer's certificates in MC–29684 and (Sub-Nos. 3, 4, 5, 6, and 7), which authorizes the transportation of (a) *general commodities*, usual exceptions, over regular and irregular routes in the states of CT, DE, MA, NJ, NY, RI, and PA, and (b) *specified commodities* in CT. WM. H.P., INC., a motor carrier with authority in MC–38921 and sub-numbers thereunder, was merged into K.M.A. Leasing, Inc., pursuant to MC–FC–77599, and the motor carrier operation has continued under the name of K.M.A. Leasing, Inc., d/b/a WM. H.P., Inc.

**Notes.**—(1) This notice does not purport to be a complete description of the operating rights of the carriers involved.

(2) Temporary authority was granted by order entered March 12, 1980. (Hearing site: Philadelphia, PA)

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81–433 Filed 1–6–81; 8:45 am]

**BILLING CODE 7035–01–M**

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## Motor Carrier Transfer Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

*We find:* Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before January 27, 1981. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices on or before January 27, 1981, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5.

No. MC–FC–77835. By decision of October 6, 1980 issued under 49 U.S.C. 10922, appellate Division 1 approved the elimination of the gateways resulting from the transfer to Harold Williams DBA, Williams Moving Co., of Dexter, MO, of certificate No. MC–19240 issued November 4, 1969 to Courtney Van Lines, Inc. authorizing the transportation of *Household goods*, between points in Arkansas, Missouri, Tennessee, Kentucky, and Illinois, on the one hand, and, on the other, points in Missouri, Kentucky, Indiana, Iowa, Ohio, West Virginia, Pennsylvania, New Mexico, Texas, Kansas, Wisconsin, Oklahoma, Tennessee, Michigan, Nebraska, Colorado, Alabama, Arkansas, Illinois, and the District of Columbia. (The gateways eliminated are located in the counties of Alexander, Pulaski, Massac, Union, and Jackson, Illinois. Applicant's representative is: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81–436 Filed 1–6–81; 8:45 am]

**BILLING CODE 7035–01–M**

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**[Finance Docket No. 29499]**

## Youngstown Sheet and Tube Co.—Merger—Jones & Laughlin Steel Co.—Exemption

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Exemption.

**SUMMARY:** Youngstown Sheet and Tube Company (Youngstown), which owns all the stock of Chicago Short Line Railroad (Short Line), seeks to merge with Jones & Laughlin Steel Co. (J&L Steel). A petition was filed on October 10, 1980, seeking exemption from 49 U.S.C. 11343–11347, which requires the Commission's prior approval of the transaction. We are granting the exemption.

**DATES:** Exemption effective February 6, 1981.

**ADDRESSES:** Send pleadings to: Interstate Commerce Commission, Section of Finance, Room 5414, 12th and Constitution Ave., NW, Washington, DC 20423. Petitioners' representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000 16th St., NW, Washington, DC 20036. [All pleadings should refer to the docket No.—Finance Docket No. 29499].

**FOR FURTHER INFORMATION CONTACT:** Richard A. Kelly (202) 275–7564.

**SUPPLEMENTARY INFORMATION:** Youngstown and J&L Steel filed a petition under 49 U.S.C. 10505 requesting that the proposed merger between the two companies and the resulting change in the form of control of Short Line be exempted from the provisions of 49 U.S.C. 11343–11347.

Section 10505 (amended by the Staggers Rail Act of 1980, Pub. L. No. 96-448) allows the Commission to exempt a transaction if it finds that (1) regulation is not necessary to carry out the transportation policy of 49 U.S.C. § 10101a; and (2) either the transaction is limited in scope, or regulation is not needed to protect shippers from the abuse of market power.

Youngstown is a non-carrier in control of a railroad. J&L Steel is a carrier for limited purposes under the Interstate Commerce Act.

**Proposed Transaction**

J&L Steel owns all the capital stock of Aliquippa and Southern Railroad (Aliquippa), the Cuyahoga Valley Railway Co. (Cuyahoga), and the Monongahela Connecting Railroad Co. (Monongahela). These three small railroad companies are subject to regulation by the Commission. J&L Steel also owns 49 percent of the capital stock of Youngstown, which in turn owns all the stock of the Short Line, a common carrier by railroad. Jones and Laughlin Industries, Inc. (J&L Industries), owns all the stock of J&L Steel and the remaining 51 percent of the stock of Youngstown. J&L Industries in turn, is a wholly-owned subsidiary of the LTV Corp. (LTV).

Youngstown seeks to merge with J&L Steel, and after that merger, Short Line would become a direct, instead of indirect, subsidiary of J&L Steel. Control of Short Line by J&L Industries and LTV would be modified to the extent that one corporation, (Youngstown) would be eliminated from the corporate chain.

**Discussion and Conclusion**

We recently adopted new regulations for railroad consolidations. See *Railraod Consolidation Procedures*, 363 I.C.C. 200 (1980). We listed six classes of transactions which satisfy the criteria of section 10505. Although section 10505 has been amended by the Staggers Rail Act, we believe that those six types of transactions continue to meet the new criteria. Included in the six is the type involved here: Transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

**Rail Transportation Policy**

There are 15 objectives of the United States in regulating the railroad industry. See 49 U.S.C. 10101a. If the proposed exemption does not contravene or interfere with these listed objectives, then regulation of the transaction is not necessary to carry out the objectives of 49 U.S.C. 10101a.

Regulation of the proposed transaction by Youngstown and J&L Steel is not necessary to carry out the goals of the transportation policy of section 10101a. Here our concern is with the affect of a merger upon the operations and stability of the railroads owned by these corporate parents. So far as the railroads are concerned, there will be no change in the railroads' operations and, consequently, no effect on the policies of section 10101a. A merger between the parent companies could substantially aid the railroads since the transaction would result in a financially stronger surviving corporation, while the change in the form of control of Short Line would have no impact on rail transportation policy. Such aid to the subsidiary railroads is indeed consistent with section 10101a.

**Limited Scope**

The proposed merger of Youngstown with J&L Steel and resulting change in control of Short Line is a transaction of limited scope. There will be little direct impact on the Short Line, Aliquippa, Cuyahoga, and Monogahela as a result of this merger between corporate parents. These railroads will continue to provide the same services. Nor will there be any change in the competitive balance with carriers outside the corporate family.

Since it will be subject to employee protection, the proposed change of control will have a limited effect on the employees of the railroads. None of the railroad subsidiaries will cease or limit operations since the same services will be provided as before. Youngstown's merger with J&L Steel would simply make Short Line a direct subsidiary of J&L Steel.

There will be no adverse effect on energy consumption or on the environment. No new capitalization, securities, or other financing is involved as far as the railroad subsidiaries are concerned.

The transaction proposed by Youngstown and J&L Steel is of limited scope both operationally and competitively. It is clearly the type of transaction which is within a corporate family, does not result in adverse changes in service levels, has no significant operational changes, and does not change the competitive balance with carriers outside the corporate family.

Regulation is unnecessary when minor refinements in corporate structure must be made. So far as the railroad subsidiaries themselves are concerned, this is a minor refinement in corporate structure, a transaction involving businesses within a corporate family which will have no effect on the carriers. The refinement should be in the best interest of Youngstown and J&L Steel in that the merged company would be financially stronger and have better access to long-term debt markets. A financially stronger parent will be advantageous and beneficial to the subsidiary railroads.

Since the proposed transaction is of limited scope, it is not necessary to consider whether our regulation is needed to protect shippers from the abuse of market power.

*Labor Protection.* In granting an exemption under section 10505, the Commission may not relieve a carrier of its obligation to protect the interests of employees as otherwise required by 49 U.S.C., subtitle IV. See 49 U.S.C. 10505(g)(2). We have determined that the employee protective provisions developed in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), satisfy the statutory requirements for protection of employees involved in merger transactions under 49 U.S.C. 11343. Accordingly, these protective provisions which are normally imposed in merger transactions will be imposed here.

The exemption granted here will become effective February 6, 1981. Any party may file a petition to reopen this proceeding for reconsideration in accordance with Rule 98(d) of the Commission's Rules of Practice (49 CFR 1100.98(d)). the petition must be filed no later than 20 days following the date of publication. The filing of a petition will not automatically stay the effect of this action, except that the Commission may, on its own motion or on petition, stay the effective date. A petition to stay must be filed no later than 10 days following the date of publication.

*We find:* (1) The application of the requirements of 49 U.S.C. 11343–11347 to the merger by Youngstown with J&L Steel and the resulting change in control of Short Line is not necessary to carry out the transportation policy of 49 U.S.C. 10101a.

(2) The proposed transaction is of limited scope.

(3) This decision will not relieve any rail carier from an obligation either (a) to provide contractual terms for liability and claims which are consistent with 49 U.S.C. 11707 or (b) to protect the interest of employees as required by 49 U.S.C. 11347; and (c) does not authorize intermodal ownership that is otherwise prohibited.

(4) This action wil not significantly affect either energy consumption or the quality of the human environment.

*It is ordered:* (1) The proposed merger of Youngstown with J&L Steel and the

resulting change in control of Short Line is exempted under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 11343–11347, subject to the conditions for the protection of railroad employees imposed in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

(2) If the control of Short Line is altered as proposed in this proceeding, petitioners shall have 60 days after the transaction is completed to submit three copies of a sworn statement showing all journal entries, if any, required to record the transaction.

(3) Notice of our action shall be given to the general public by delivery of a copy of this to the Director, Office of the Federal Register for publication.

(4) This exemption will continue in effect for one year from the effective date of this decision. Applicants must consummate this transaction during that time in order to take advantage of the exemption which we have granted.

(5) This decision shall be effective February 6, 1981.

(6) Petitions to stay the effective date of this decision must be filed no later than January 19, 1981.

(7) Petitions to reopen the proceeding must be filed no later than January 27, 1981.

Dated: December 22, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81-429 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

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**[No. MC-C-10792]**

## Petition for Declaratory Order; Livestock and Poultry Feed Exemption

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of declaratory order proceeding.

**SUMMARY:** By petitions filed September 16 and September 24, 1980, Boaz Produce Company and Anheuser-Busch Companies, Inc., seek a ruling that the transportation of feed ingredients is exempt under 49 U.S.C. 10526(a)(6) (E) as amended by section 7(a)(4) of the Motor Carrier Act of 1980.

**DATES:** Comments are due on or before February 6, 1981.

**ADDRESS:** Send an original and, if possible, 15 copies of comments to: MC-C-10792, Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423

Send one copy of comments to each of petitioners' representatives:

R. B. Fredrickson, Transportation Planning, Anheuser-Busch Companies, Inc., 721 Pestalozzi Street, St. Louis, MO 63118

Eugene D. Anderson, 910 Seventeenth St., N.W., Suite 428, Washington, D.C. 20006

**FOR FURTHER INFORMATION CONTACT:** Jasneth C. Metz, (202) 275-7974 or Edward E. Guthrie, (202) 275-7691.

**SUPPLEMENTARY INFORMATION:** Section 7(a)(4) of the Motor Carrier Act of 1980, (Pub. L. 96-296, 94 Stat. 797) amended Section 10526(a)(6) of Title 49, Subtitle IV, U.S. Code, by adding subparagraph (e), which exempts motor vehicle transportation of:

> Livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production.

Petitioners ship feed ingredients primarily to feed manufacturers and, in the case of Anheuser-Busch, directly to farms on occasin.[1] Assuming that certain livestock feed *ingredients* moving to a feed mixing mill fell within the exemption, Boaz Trucking Company hauled a load in interstate transportation without holding operating authority to do so. The company was fined by the Georgia Public Service Commission for operating without the appropriate ICC authority.

Petitioner Boaz contends that the legislative history of the statute makes it clear that Congress intended "feed ingredients" to be included within the exemption for "feed." To support its position, petitioner cites statements on the issue made by Rep. Howard, the floor leader of the bill, on the floor of the House of Representatives during debate on the legislation.

The Commission has ruled that the term "animal and poultry feed" does not include feed ingredients. See *Ace Freight Line, Inc., Extention—Florida*, 86 M.C.C. 689, 693 (1961), *Dahlsten Extention—Soybean Meal*, 99 M.C.C. 553, 555 (1965). Based upon this fact, the statute might be construed to exempt only feed and those ingredients which are themselves feed and can be fed directly to animals or poultry but would not extend to other feed ingredients. However, the legislative history of the new exemption seems to suggest that Congress intended the Commission to apply a broader interpretation to the term "livestock and poultry feed." In response to a request to clarify the scope of that commodity description, Rep. Howard stated, "* * * as written by the committee, the terms 'livestock and poultry feed' include both the prepared feed and the oilseed meal and grain product feed ingredients which are shipped in conformance with all other conditions of this act." [2] The courts have held that statements made by a committee member in charge of a bill in the course of its passage may be regarded as an exposition of legislative intent. See *Gold Kist, Inc.* v. *United States*, 339 F. Supp. 1249, 1254 (N.D. Ga. 1971).

In order to comply with the legislative intent of the statute the Commission proposes to interpret the exemption to include feed ingredients as well as the commodities listed in Appendix A. All prior Commission decisions and rulings treating these items as regulated commodities would, consequently, be overruled. It is not clear whether Congress intended to exempt *all* feed ingredients. Rep. Howard's comments quoted above refers only to feed ingredients derived from agricultural products. There is no discussion of manufactured chemical substances used in feed mixes. However, we are inclined to think that the latter substances would also be exempt as long as they "have only one end-use that is, animal feed." The purpose of the new statute is to recognize "the economic and energy logic of allowing truckers who bring in unregulated grains to feed processing facilities to leave with a load of the prepared feeds destined to the farm." [3] Under these circumstances, logic, common sense, and the spirit of the law seem to dictate that if these facilities also manufacture chemically-based feed ingredients, they too would be exempt.

As to whether or not pet food is covered by the exemption (as Boaz suggested) is a more difficult question. In Commission vernacular "livestock" is divided into two categories, "ordinary" and "other than ordinary." "Ordinary livestock" defines cattle, swine, sheep, goats, horses, and mules. "Other than ordinary livestock" defines that more valuable animals such as racehorses, high-breed cattle, show, rodeo, and laboratory animals, and zoo animals

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[1] Boaz Produce Company filed a formal petition which also refers to an entity identified as Boaz Trucking Company. The pleading of Anheuser-Busch Companies is in the form of a letter requesting an interpretation of the exemption's scope.

[2] 126 Cong. Rec. H5402 (daily ed. June 19, 1980).

[3] Cong. Rec., *supra*.

and birds.[4] Neither category includes pets. There is no clear indication from the statute or the legislative history as to whether Congress intended to make the exemption that broad. Rep. Howard's comments on this issue during debate on the legislation were noncommital, at best.[5]

Petitioner Boaz believes that the transportation of feed ingredients and pet food is exempt under 49 U.S.C. 10526(a)(6)(E) and requests a formal ruling to that effect. Petitioner Anheuser-Busch requests a ruling as to whether the residual commodities from its brewing and corn refining operations are exempt both when moving to a feed manufacturer and directly to a farm.

No oral hearing is contemplated. Any person (including petitioners) desiring to participate in this proceeding shall file with the Commission an original and 15 copies of written representations, views, or arguments. A copy of each representation also must be filed on petitioners' representatives.

This action does not appear to affect significantly either the quality of the human environment or conservation of energy resources.

*It is ordered*

Pursuant to 5 U.S.C. 554(e) and in the sound exercise of our discretion, a declaratory proceeding is instituted.

Decided: December 30, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Alexis absent and not participating.

**Agatha L. Mergenovich,**

*Secretary.*

Appendix A

Possible items which could be included within the expanded agricultural exemption are as follows:

Alfalfa cubes and wafers (prepared by a steam process)
Alfalfa pellets
Bird gravel
Bran shorts
Corn gluten
Cottonseed cake
Distilled corn grain residues, with or without solubles added
Hominy feed
Meals—Alfalfa, Corn Gluten, Copra, Cottonseed, Fish, Flaxseed, Linseed, Peanut, Soybean, Sunflower, Wheat millfeed
Middlings
Rice hulls (anhydrous ammonia added)
Rice mill feed pellets
Soybean meal
Sugar beet pulp pellets
Wheat bran

[FR Doc. 81-425 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

[4] See MC-107180 (Sub-No. 1), *O. J. Gray Extension—Specified Commodities* (not printed in full), decided April 28, 1950.

[5] Cong. Rec., *supra*, at H5353.

[Finance Docket No. 29486F]

## Delaware and Hudson Railway Company; Acquisition and Operation of a Line of Railroad in Broome County, NY, and Susquehanna, Wyoming, and Lackawanna Counties, PA

Delaware and Hudson Railway Company (D&H) represented by George H. Kleinberger, General Attorney, Delaware and Hudson Railway Company, 40 Beaver Street, Albany, NY 12207, hereby gives notice that on the 22nd day of September, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 for authority to purchase and operate a line of railroad owned by the Consolidated Rail Corporation located in Broome County, NY, and Susquehanna, Wyoming, and Lackawanna Counties, PA, extending from a point in the City of Binghamton, Broome County, NY, for a distance of 60.34 miles through Broome County, NY, and Susquehanna, Wyoming, and Lackawanna Counties, PA, to a point in the City of Scranton, Lackawanna County, PA.

Applicant proposes to acquire and operate a line of railroad presently owned by Conrail. Applicant and Conrail have entered into an Agreement of Sale providing for Conrail's sale of the subject railroad to Applicant. The total number of miles of track proposed to be acquired and operated, in addition to East Binghamton Yard and Taylor Yard, is 60.34 miles, all of which is main line.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29486F and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than February 23, 1981. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81-434 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29463 (Sub-1)]

## Norfolk and Western Railway Company; Trackage Rights Over the Baltimore and Ohio Railroad Company

Norfolk and Western Railway Company (NW), 8 North Jefferson Street, Roanoke, VA, 24042, represented by John S. Shannon, Senior Vice President-Law, 8 North Jefferson Street, Roanoke, VA 24042, hereby gives notice that on the 5th day of December, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 for authority to acquire trackage rights over the tracks of The Baltimore and Ohio Railroad Company (B&O) extending between milepost 6.7 at Winston Place in Cincinnati, OH to milepost 26.5 at Old River Junction in Hamilton, OH, a distance of approximately 19.9 miles. The trackage rights will be bridge rights only.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See

*Implementation—Nat'l Environmental Policy Act, 1969, supra,* at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29463 (Sub-No. 1) and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than February 23, 1981. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81-435 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

## Washington; Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

December 30, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before January 22, 1981.

No. 43888, Sea-Land Service, Inc. (No. 112), for rail carriers parties to Tariff ICC SEAU 350, FMC No. 203, to establish rail-water commodity rates on general commodities from Ports in the Far East to rail carrier's terminals in the interior United States, via the West Coast Ports of Long Beach and Oakland, CA and Seattle, WA, effective January 15, 1981. Grounds for relief—water competiton.

By the Commission.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81-437 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

## Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

### Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitile IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

**Note.**—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

### Volume Number OP1-103

Decided: December 18, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 2860 (Sub-215F), filed December 4, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Gerald s. Duzinski (same address as applicant). Transporting *food, food products, groceries, and footwear,* between Philadelphia, PA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS, restricted to traffic originating at or destined to the facilites of Food Fair Manufacture Co., and Footwear Services, Inc.

MC 5881 (Sub-3F), filed December 11, 1980. Applicant: UNDERFANGER MOVING & STORAGE, INC., 3601 West Mayflower Blvd., Springfield, IL 62707. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036. Transporting *household goods,* (1) between points in IL, MO, IN, IA, WI, and KY, and (2) between points in IL, MO, IN, IA, WI, and KY, on the one hand, and, on the other, points in ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MS, AL, TN, KY, IN, MI, OH, WV, VA, NC, SD, GA, FL, MA, RI, CT, NY, NJ, PA, DE, MD, and DC.

MC 22311 (Sub-28F), filed December 8, 1980. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Marvin Mickow, P.O. Box 765, Hammond, IN 46325. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of molded plastic products, between points in St. Joseph County, IN, on the one hand, and, on the other, points in the U.S.

MC 29510 (Sub-12F), filed December 8, 1980. Applicant: EVANS TRANSPORTATION CO., a corporation, 7800 Route No. 13, Levittown, PA 19057. Representative: Peter R. Gilbert, 1000 Potomac St., N.W., Washington, DC 20007. Transporting *metal products,* and *materials, equipment, and supplies* used in the manufacture of metal products, between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 47171 (Sub-193F), filed December 9, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (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. (except AK and HI), restricted to traffic originating at or destined to the facilities used by American Cyanamid Company and its subsidiaries.

MC 47171 (Sub-194F), filed December 11, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *plastic articles, pulpboard* (except corrugated), *and containers,* from the facilities of Container Corporation of America, at or near Stone Mountain, Atlanta, and Lithonia, GA, to points in AL.

MC 52460 (Sub-300F), filed December 10, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *non-alcoholic mixes and juices* (except in bulk), from the facilities of Master of Mixes, Inc., at (a) Corona, CA, and (b) Byhalia, MS, to points in AL, AR, CO, FL, GA, IA, IL, KS, LA, MO, NC, NE, NM, OK, SC, TN, and TX.

MC 60470 (Sub-24F), filed December 10, 1980. Applicant: MOTORCAR TRANSPORT COMPANY, 1280 Joslyn Ave., Pontiac, MI 48055. Representative: Joseph Gracia, Suite 211, 3221 W. Big Beaver Rd., Troy, MI 48084. Transporting *motor vehicles,* between points in the U.S.

MC 65781 (Sub-7F), filed December 10, 1980. Applicant: BARRETT MOVING & STORAGE, INC., 710 Washington Avenue South, Eden Prairie, MN 55344. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *waterbeds,* and *parts and accessories* for waterbeds, between points in Salt Lake and Davis Counties, UT, on the one hand, and, on the other, points in ND, SD, MN, WI, IA, and IL.

MC 75840 (Sub-145F), filed December 8, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Raymond Hamilton, 3400 Third Ave. S., Birmingham, AL 35222. Transporting *chemicals or allied products* as described in Item 28 of the Standard Transportation Commodity Code Tariff, between points in Cortland County, NY, on the one hand, and, on the other, points in AR, FL, LA, and TX.

MC 97251 (Sub-16F), filed December 9, 1980. Applicant: TURNER TRUCKING CO., INC., 1215 West Main St., Lebanaon, IN 46052. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204. *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), between Chicago, IL and Lafayette, IN, over Interstate Hwy 65, serving no intermediate points.

**Note.**—Applicant intends to tack this authority with its existing regular-route authority.

MC 113041 (Sub-16F), filed December 8, 1980. Applicant: AC-BERWICK TRANSPORTERS, INC., 155 Smith Street, Keasbey, NJ 08832. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting (1) *petroleum, petroleum products, coal, coal products, and building materials,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in CT, RI, MA, ME, VT, NJ, NY, PA, OH, DE, MD, VA, WV, NC, SC, NH, MS, TN, KY, IN, IL, MI, AL, GA, FL, and DC.

MC 114211 (Sub-486F), filed December 10, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting (1) *building materials and equipment,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in Beltrami County, MN, on the one hand, and, on the other, points in the U.S.

MC 114211 (Sub-487F), filed December 10, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of clay products, between points in Rusk County, TX, on the one hand, and, on the other, points in IA, IL, KS, MN, MO, ND, NE, SD, and WI.

MC 115841 (Sub-778F), filed December 8, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Richard L. Hollow, (same address as applicant). Transporting (1)(a) *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, and (b) *foodstuffs,* 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 Swift Independent Packing Company, of Chicago, IL.

MC 116300 (Sub-84F), filed December 20, 1980, and previously noticed in **Federal Register** issue of November 17, 1980. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting (1) *malt beverages,* and (2) *materials and supplies* used in the manufacture and distribution of malt beverages, between points in AL, AR, FL, GA, LA, MS, MO, NC, TN, and TX.

**Note.**—This republication includes the state of MS in the territorial description.

MC 118811 (Sub-18F), filed: December 8, 1980. Applicant: LAWRENCE McKENZIE TRUCKING SERVICE, INC., Route 5, Winchester, KY 40391. Representative: William L. Willis, Suite 708 McClure Bldg., Frankfort, KY 40601. Transporting *iron and steel articles, alumium articles, and road construction materials, equipment, and supplies* except commodities requiring special equipment), between Kansas City, MO, points in AL, FL, GL, GA, IL, IN, KY, MS, NC, OH, SC, TN, TX, VA, WV, and those in Pulaski County, AR, Sedgwick County, KS, Genesee County, MI, and Linn County, MO.

MC 121450 (Sub-14F), filed: December 8, 1980. Applicant: McCOMAS TRUCK LINES, INC., P.O. Box 969, Chickasha, OK 73018. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), (1) between Ringgold and Houston, TX: from Ringgold over U.S. Hwy 81 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction Interstate Hwy 45, then over Interstate Hwy 45 to Houston, and return over the same route, serving all intermediate points; and (2) between Jacksboro and Dallas, TX: from Jacksboro over TX Hwy 199 to junction Interstate Hwy 20, then over U.S. Hwy 20 to Dallas, and return over the same route, serving all intermediate points.

**Note.**—Applicant intends to tack this authority with its existing regular-route authority.

MC 128860 (Sub-20F), filed: December 9, 1980. Applicant: LARRY'S EXPRESS, INC., 720 Lake St., Tomah, WI 54660. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *malt*

*beverages and malt beverage dispensing equipment*, between points in the U.S., under continuing contract(s) with Van Munching & Co., Inc., of New York, NY.

MC 135321 (Sub-5F), filed: December 1, 1980. Applicant: P & C TRUCKING, INC., P.O. Box 117, Pinckneyville, IL 62274. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. 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 United States Gypsum Company, L & W Supply Corporation, Columbia Building Materials Corp., C–S–W Drywall Supply Company, Gypsum Services Corporation, Stocking Specialists Inc., United States Gypsum Export Company, and United States Gypsum Insulation Company, all of Chicago, IL, Canadian Gypsum Company, Limited, C.N.G. Distribution, Limited, Fundy Gypsum Company, Limited, Little Narrows Gypsum Company, Limited, and Peeters Carpets, Ltd., all of Toronto, Ontario, Canada, Durabond Products Company, and Permalastics Products, Incorporated, both of Rosemont, IL, A. P. Green Refractories Company, of Mexico, MO, The E. J. Bartells Company, of Renton, WA, Bigelow-Liptak of Canada, Limited, of Mississauga, Ontaria, Canada, Bigelow-Liptak Corporation, of Southfield, MI, Bigelow-Liptak Export Corporation, of Houston, TX, A. P. Green Refractories (Canada), Ltd., of Weston, Ontario, Canada, A. Lynn Thomas Company, Incorporated, of Richmond, VA, Fundy Gypsum Company, Limited, of Windsor, Nova Scotia, Canada, Kinkead Industries, Incorporated, of Downers Grove, IL, North Bay Building Materials Co., Inc., of Napa Junction, Vallejo, CA, Sequoyah Carpet Corporation, of Anadarko, OK, Hollytex Carpet Mills, Inc., of City of Industry, CA, and Wiss, Janey, Elstner and Associations, Incorporated, of Northbrook, IL.

MC 135861 (Sub-89F), filed December 8, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting *frozen foodstuffs*, and *materials, equipment, and supplies* used in the manufacture and distribution of frozen foodstuffs, between points in the U.S., under continuing contract(s) with Mrs. Smith's Frozen Foods Co., of Pottstown, PA.

MC 135861 (Sub-90F), filed December 9, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting *foodstuffs*, between points in the U.S., under continuing contract(s) with Life Savers, Inc., of New York, NY, Imperial Frozen Foods Co., of Great Neck, NY, and U & J Lenson Corp., of Brooklyn, NY.

MC 139760 (Sub-7F), filed December 10, 1980. Applicant: WILLIAM ULBRICH TRUCKING CO., INC., 128 Vreeland Ave., Leonia, NJ 07605. Representative: William Ulbrich, Jr. (same address as applicant). Transporting *scrap metal, metal products, and chemicals*, between points in the U.S., under continuing contract(s) with Vulcan Materials Co., of Birmingham, AL.

MC 141843 (Sub-4F), filed December 8, 1980. Applicant: BOND TRANSPORTATION, INC., 155 Smith St., Keasbey, NJ 08832. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting (1) *petroleum, petroleum products, coal, coal products, and building materials*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV, and DC.

MC 142140 (Sub-6F), filed December 8, 1980. Applicant: CITY TRANSFER AND STORAGE OF CONRAD, INC., 111 N. Delaware, P.O. Box 1432, Conrad, MT 59425. Representative: Eugene D. Riewer (same address as applicant). *In foreign commerce only*, transporting *dry fertilizer*, in bulk, between the port of entry on the international boundary line between the U.S. and Canada at Sweetgrass, MT, on the one hand, and, on the other, Power and Fairfield, MT.

MC 143291 (Sub-5F), filed December 8, 1980. Applicant: RAYLS BROTHERS TRANSFER, INC., Box 342, North Dixie Hwy., Hoopeston, IL 60942. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting (1) *foodstuffs and canned goods*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in Iroquois County, IL, on the one hand, and, on the other, points in IN, IA, KY, MO, MI, OH, TN, and WI.

MC 143621 (Sub-53F), filed October 20, 1980, and previously noticed in the **Federal Register** issue of November 17, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., 219 Whitsett Avenue, P.O. Box 100991, Nashville, TN 37210. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *primary metal products* (except coating or other allied processing), *fabricated metal products* (except ordance), and *machinery* (except electrical) as described in Items 33, 34, and 35, respectively, of the Standard Transportation Commodity Code Tariff, between points in Davidson County, TN, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KY, MS, MI, MN, MO, OH, PA, TN, TX, and WI.

**Note.**—The purpose of this republication is to reflect the correct commodity description.

MC 143921 (Sub-5F), filed December 5, 1980. Applicant: BAMA EXPRESS, INC., P.O. Box 222, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *such commodities* as are dealt in by distributors of construction and home improvement materials, between points in AL, AR, FL, GA, IN, KY, LA, MS, NC, SC, TN, and VA.

MC 145230 (Sub-6F), filed December 11, 1980. Applicant: H & S TRUCKING, INC., P.O. Box 127, Wesson, MS 39191. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting *building materials and supplies* between points in the U.S., under continuing contract(s) with Woodstock, Inc., of Terry, MS.

MC 145371 (Sub-6F), filed December 8, 1980. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *foodstuffs*, and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between points in the U.S., restricted to traffic originating at or destined to the facilities of Del Monte Corporation.

MC 145441 (Sub-131F), filed December 8, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *foodstuffs* (except commodities in bulk), between the facilities of Century & Associates, Inc., at Cerritos, CA, on the one hand, and, on the other, points in the U.S.

MC 146290 (Sub-9F), filed December 4, 1980. Applicant: DON THREDE, d.b.a. DON THREDE TRUCKING COMPANY, 1777 Arnold Industrial Highway, Concord, CA 94520. Representative: Eldon M. Johnson, 650 California St., Suite 2806, San Francisco, CA 94108. 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 Varco-Pruden Metal Building Systems, of Turlock, CA.

MC 148710 (Sub-10F), filed December 9, 1980. Applicant: SEABOARD EXPRESS, INC., 6327 Burnt Poplar Road., Greensboro, NC 27409. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. Transporting *such commodities* as are dealt in by automotive service centers (except commodities in bulk), between points in the U.S., under continuing contract(s) with Corn Brothers, Inc., of Smyrna, GA.

MC 148710 (Sub-11F), filed December 10, 1980. Applicant: SEABOARD EXPRESS, INC., 6327 Burnt Poplar Rd., Greensboro, NC 27409. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *printed matter*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of printed matter, between points in the U.S., under continuing contract(s) with W. R. Bean & Son, Inc., of Atlanta, GA.

MC 149170 (Sub-21F), filed December 8, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st St., Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *small arms ammunition, parts* for small arms ammunition, *electrical switchboxes, conduit outlet boxes, junction box covers, and electrical equipment and products*, (except electrical appliances), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between Anoka, MN, on the one hand, and, on the other, points in the U.S.

MC 150211 (Sub-8F), filed December 8, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Jerry Ross (same address as applicant). Transporting *such commodities* as are dealt in or used by grocery and food business houses, between Jackson, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, LA, MO, MS, NC, OH, SC, TN, and TX.

MC 150801 (Sub-1F), filed December 3, 1980. Applicant: ZIPP-EXPRESS, INC., 718 N. Senate Ave., Indianapolis, IN 46202. Representative: Alki E. Scopelitis, 1303 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *motion picture film*, and (2) *materials, equipment, and supplies* used in the operation and maintenance of theatrical productions exhibitions, (a) between points in IN, and (b) between points in IN, on the one hand, and, on the other, points in Jefferson County, KY.

MC 152790 (Sub-1F), filed December 5, 1980. Applicant: D. J. TRANSFER COMPANY, INC., 8213 West 58th St., Merriam, KS 66202. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603. 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 Kansas City, MO, on the one hand, and, on the other, points in AR, IA, KS, MO, NE, and OK, restricted to traffic having a prior or subsequent movement by rail.

MC 153097F, filed December 8, 1980. Applicant: SCHULTZ TRUCKING, INC., 7695 Aumsville Hwy, SE., Salem, OR 97301. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *foodstuffs*, between points in OR, on the one hand, and, on the other, points in WA.

MC 153101F, filed December 10, 1980. Applicant: STEVE CROFTER, 210 Elliot St., Brattleboro, VT 95301. Representative: Steve Crofter (same address as applicant). Transporting *household goods*, between points in VT, Cheshire County, NH, and Franklin County, MA, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, and NY.

**Volume No. OPI–105**

Decided: December 16, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Hill dissenting.

MC 531 (Sub-457F), filed November 25, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *Chemicals, ores, vegetable oils, and vegetable oil products*, in bulk, between points in NJ and TX.

MC 48221 (Sub-30F), filed November 21, 1980. Applicant: W.N. MOREHOUSE TRUCK LINE INC., 4010 Dahlman Ave., Omaha, NE 68107. Representative: Greg A. Dickinson, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *malt beverages and drink mixes*, between Cincinnati, OH, Chicago, IL, and points in WI and MN, on the one hand, and, on the other, points in NE.

MC 114211 (Sub-490F), filed November 13, 1980. Applicant: WARREN TRANSPORT, INC., 210 Beck Ave., P.O. Box 420, Walterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between points in the U.S. Condition: Prior to issuance of a certificate in this proceeding, applicant must request cancellation of those certificates which duplicate the above authority.

MC 120641 (Sub-2F), filed November 19, 1980. Applicant: DEE TRANSPORTATION, INC., 217 South Ashburnham Road, Westminster, MA 01473. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. Transporting (1) *foodstuffs and paper and paper products*, from points in Worcester County, MA, to points in CT, ME, MA, NH, NJ, PA, RI, and VT, (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, to points in Worcester County, MA, and (3) *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. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant s written request, of its Certificate of Registration in MC–120641.

**Note.**—The purpose of this application is to convert applicant's Certificate of Registration in MC–120641 to a Certificate of Public Convenience and Necessity in part (3) and to extend its authority in parts (1) and (2).

MC 134721 (Sub-7F), filed November 26, 1980. Applicant: GEORGE M. DZIAK, d.b.a. SUPER SERVICE TRANSPORT, P.O. Box 3494 TA, Spokane, WA 99220. Representative: Richard H. Streeter, 1729 H. St., NW., Washington, DC 20006. Transporting (1) *iron and steel articles*, from Seattle, WA and Portland, OR to Spokane, WA, (2) *iron and steel articles, scrap and waste materials*, from points in WA, OR, CA, ID, UT, CO, MT, and WY to points in WY, ID, and MT, and (3) *hides*, from Great Falls, MT and Portland, OR to Seattle, WA.

MC 142941 (Sub-73F), filed November 21, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same address as applicant). Transporting *alcoholic beverages* (except commodities in bulk), between points in AZ, CA, NV, on the one hand, and, on the other, points in IL, IN, KY, MD, MI, MO, NJ, NY, OH, OK, PA, and TN. Condition: Upon assistance of a certificate in this proceeding, the certificate in MC 142941 Sub-55F, will be cancelled.

MC 146140 (Sub-5F), filed November 25, 1980. Applicant: MELVIN SALES COMPANY, 901 North Vermillion St., Streator, IL 61364. Representative: Paul J. Maton, 10 S. LaSalle St., Rm. 1620, Chicago, IL 60603. Transporting (1) *such*

*commodities* as are dealt in or used by manufacturers and distributors of glass containers and closures, between points in the U.S., restricted to traffic originating at or destined to the facilities of Thatcher Glass Mfg. Co., and (2) *alcoholic beverages*, between Plainfield, IL, and points in AR, MO, IL, IN, IA, WI, KY, MI, OH, TN, NE, CO, KS, OK, MN, SD, ND, UT, NV, CA, WY, AZ, NM, TX, LA, WV, GA, FL, and AL.

MC 149070 (Sub-2F), filed November 21, 1980. Applicant: LESCO TRUCKING COMPANY, INC., 7540 LBJ Freeway, Suite 224, Dallas, TX 75251. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *earth drilling machinery, equipment, materials, supplies, and pipe incidental to*, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (A) between points in AK, AL, AR, CO, FL, GA, ID, IN, KA, KY, LA, MI, MS, MO, MT, NM, OH, OK, TN, TX, UT, WV and (B) between points in AZ, CA, CT, DE, IL, IA, ME, MD, MA, MN, NE, NV, NH, NJ, NY, NC, ND, OR, PA, RI, SC, SD, VT, VA, WA, and WI, on the one hand, and, on the other, points in the U.S.

MC 152661F, filed November 12, 1980. Applicant: STEWART'S WELDING & HOT SHOT SERVICE, P.O. Box 293, Powell, WY 82435. Representative: Joe Gerbase, Suite 100, Transwestern Bldg., 404 North 31st St., Billings, MT 59101. Transporting (1) *machinery, equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and pickup thereof, between points in WY, CO, MT, ND and ID.

MC 152841 (Sub-1F), filed November 24, 1980. Applicant: FREEWAY EXPRESS, INC., 2930 Putnam Ave., Hurricane, WV 25526. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *lumber or wood products;* except furniture—see Major Industry Group 25, *chemicals or allied products, clay, concrete, glass or stone products, primary metal products; inc. galvanized;* except coating or other allied processing—see Major Industry Group 34, *fabricated metal products;* except Ordnance—see Major Industry Group 19, Machinery, 35, 36, or 37—Transportation Equipment, *machinery;* except Electrical—see Major Industry Group 36, and *containers, shipping, returned empty; aao. carriers or devices,* as described in Items (24), (28), (33), (34), (35), and (42) respectively, of the Standard Transportation Commodity Code Tariff, between those points in the U.S., in and east of MN, IA, MO, AK and TX.

**Volume No. OP1–107**

Decided: December 19, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 730 (Sub-519F), filed December 1, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, P.O. Box 8004, Walnut Creek, CA 94596. Representative: J. E. Gallegos, 215 Lincoln Ave., P.O. Box 2228, Santa Fe, NM 87501. Transporting *commodities in bulk,* between points in AZ, CA, CO, ID, KA, LA, MT, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA and WY. Condition: Prior to the issuance of a certificate in this proceeding applicant must request in writing, cancellation of those certificates which duplicate the above authority.

MC 28951 (Sub-24F), filed December 11, 1980. Applicant: ROSS TRANSFER, INC., P.O. Box 271, Chadron, NE 69337. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *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), between Chadron and Alliance, NE, over U.S. Hwy 385, serving all intermediate points and serving Hemingford, NE, as an off-route point.

**Note.**—Applicant intends to tack this authority with its existing regular-route authority.

MC 29910 (Sub-310F), filed December 10, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Niagara, Erie, Orleans, Genesee, Monroe, Ontario, Wayne, Seneca, Cayuga, Onondaga, Oneida, Madison, Oswego, Jefferson, Lewis, St. Lawrence, and Franklin Counties, NY, as intermediate or off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 29910 (Sub-311F), filed December 12, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Enka, NC, and Siloam Springs, AR, on the one hand, and, on the other, points in the U.S.

MC 29910 (Sub-312F), filed December 12, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting (1) *fabricated metal products (except ordnance),* (2) *Machinery and materials,* and (3) *equipment and supplies* used in the manufacture, distribution, and assembly of the commodities in (1) and (2) above, between Kerrville, Center Point, Houston, San Antonio, and Tyler, TX, on the one hand, and, on the other, points in the U.S.

MC 60060 (Sub-1F), filed November 24, 1980. Applicant: CAMPO'S EXPRESS, INC., 130 Jonslea Lane, Moscow, PA 18444. Representative: James Campo (same address as applicant). Transporting (1) *such commodities* as are dealt in by grocery stores and food distributors, (2) *such commodities* as are dealt in by drug stores and discount department stores, (3) *electrical equipment, materials, and supplies,* (4) *paper, paper mill products, and printed matter,* and (5) *such commodities* as are dealt in by distributors, wholesalers, and retailers of office supplies, office equipment, office furniture, and business machines, between points in AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, NH, NJ, NY, NC, OH, PA, RI, SC, VA, VT, WV, and DC.

MC 69281 (Sub-57F), filed December 1, 1980. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., 698 Fairmont Ave., Baltimore, MD 21204.

Representative: David W. Ayers, P.O. Box 58, Baltimore, MD 21203. Transporting (1) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those of unusual value and those requiring special equipment), and (2) *empty containers or trailer chassis*, between Boston, MA, Baltimore, MD, New York, NY, Norfolk, VA, Philadelphia, PA, Charleston, SC, Wilmington, NC, Savannah, GA, Jacksonville, and Miami, FL, restricted to traffic having an immediate prior or subsequent movement by water.

MC 75840 (Sub-147F), filed December 9, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Raymond Hamilton (same address as applicant). Transporting (1) *paper and paper products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Hanover County, VA, on the one hand, and, on the other, points in AL, DE, FL, KY, MD, NJ, NY, OH, PA, WV, and DC.

MC 78400 (Sub-96F), filed December 8, 1980. Applicant: BEAUFORT TRANSFER COMPANY, a corporation, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *such commodities* as are dealt in by stationery and office supply stores, from Parsippany, NJ, and Garden City, NY, to Union, MO.

MC 85970 (Sub-45F), filed December 12, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38024. Representative: Larry Kilzer (same address as applicant). Tranporting *plastic articles, chemicals, and rubber compounds*, between points in TN, on the one hand, and, on the other, points in GA, IL, and WV, restricted to the transportation of shipments originating at or destined to the facilities of Benco Industries, or their customers or suppliers.

MC 106451 (Sub-20F), filed November 20, 1980. Applicant: COOK MOTOR LINES, INC., P.O. Box 370, Akron, OH 44309. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), (1) between Pittsburgh, PA, and Wheeling, WV, from Pittsburgh over U.S. Hwys 22 and 30 to junction Interstate Hwy 79, then over Interstate Hwy 79 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Wheeling, and return over the same route, (2) Washington, PA, and Martinsburg, WV, from Washington over Interstate Hwy 70 to junction Interstate Hwy 79, then over Interstate Hwy 79 to junction U.S. Hwy 48, at or near Fairmont, WV, then over U.S. Hwy 48 to junction U.S. Hwy 40, at or near Cumberland, MD, then over U.S. Hwy 40 to junction Interstate Hwy 70, at or near Hancock, MD, then over Interstate Hwy 70 to junction Interstate Hwy 81, at or near Halfway, MD, then over Interstate Hwy 81 to Martinsburg, and return over the same route, (3) between Hancock, MD, and Martinsburg, WV, from Hancock over U.S. Hwy 522 to junction WV Hwy 9, at or near Berkeley Springs, WV, then over WV Hwy 9 to Martinsburg, and return over the same route, and (4) between Pittsburgh, PA, and Hancock, MD, from Pittsburgh over Interstate Hwy 376 to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 70, then over Interstate 70 to Hancock, MD, and return over the same route, serving all intermediate points on routes (1)–(4) above, and points in Armstrong, Beaver, Butler, Fayette, Greene, Lawrence, Mercer, Vernango, Washington, Westmoreland, Somerset Counties, PA, Allegany and Garrett Counties, MD, Morgan, Berkeley, and Jefferson Counties, WV, and Boyd County, KY, as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 113440 (Sub-5F), filed November 28, 1980. Applicant: HOWE TRANSPORTATION CO., 7830 Southern Blvd., Youngstown, OH 44512. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (A) *institutional and business furniture, equipment, fixtures, supplies, acccessories and parts*, (B) *data processing equipment cabinets, frames, accessories and parts thereof*, (C) *printed forms and advertising matter*, and (D) *plastic articles* (except commodities in bulk), between the facilities of The GF Business Equipment, Inc., at (1)(a) Sturgis, MI, (b) Forest City, NC, (c) Gallatin, TN, (d) City of Commerce, CA, and (e) Rochester, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) Youngstown, OH, on the one hand, and, on the other, points in the U.S. (except AK, HI, IL, IN, KY, MD, NJ, NY, PA, TN, VA, WV, and DC).

MC 119700 (Sub-75F), filed December 9, 1980. Applicant: STEEL HAULERS, INC., 306 Ewing Ave., Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, Mo 64105. Transporting *iron and steel articles*, from points in Oklahoma County, OK, to points in AR, CO, IA, KS, MO, NE, NM, SD, TX, WI, WY, and LA.

MC 121470 (Sub-72F), filed December 9, 1980. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan Street, Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting (1) *primary metal products*, (2) *fabricated metal products*, and (3) *commodities*, which because of size or weight, require the use of special equipment, between points in TN, on the one hand, and, on the other, points in the U.S. Condition: Issuance of a Certificate in this proceeding is subject to cancellation at applicants written request, of any duplicative authority.

MC 124868 (Sub-1F), filed December 15, 1980. Applicant: RALPH W. SOUTHERS, dba, SOUTHERS WRECKING & REPAIR, P.O. Box 988, Staunton, VA 24401. Representative: Harry J. Jordan, 1000 16th St. NW., Washington, D.C. 20036. Transporting *motor vehicles*, between points in the U.S., under continuing contract(s) with Mack Trucks, Inc., of Allentown, PA, Smith's Transfer Corporation of Staunton, VA, and with Erb Transportation Co., Inc., and Mortons Frozen Foods, Division of ITT Continental Baking Company both of Crozet, VA.

MC 134771 (Sub-4F), filed November 24, 1980. Applicant: AUSTIN TUPLER TRUCKING, INC., 6570 SW 47th Court, Ft. Lauderdale, FL 33314. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166. Transporting (1) *scrap metal and junk*, between points in FL, and (2) *coal*, between those points in FL on and south of FL Hwy 50. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its Certificates of Registration in MC 134771, Subs 1 and 3.

**Note.**—The purpose of this application is to convert applicant's Certificates of Registration in MC 134771, Subs 1 and 3, to Certificates of Public Convenience and Necessity.

MC 136220 (Sub-90F), filed December 9, 1980. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036. Transporting *such commodities* as are ordinarily transported in dump vehicles, between points in AL, AZ, AR, CA, CO, DE, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NJ, NM, NY, NC, ND, OH,

OK, PA, SC, SD, TN, TX, UT, VA, WV, WI, and WY. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of its certificates in MC 136220 and Subs 2, 4, 6, 11, 12, 14, 15, 18, 21, 22, 25, 26, 30, 40, 62, 63, 64, 70, 71, 83, 84, and 87, which duplicate in whole or in part of the authority sought.

MC 141740 (Sub-17F), filed December 9, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. 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 Essex Group, Inc., of Fort Wayne, IN.

MC 144630 (Sub-1F), filed December —, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *frozen foods* and (2) *materials, equipment and supplies* used in the manufacture and distribution of frozen foods, between the facilities of Stouffer Foods Corporation at Cuyahoga County, OH, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY.

MC 144961 (Sub-2F), filed November 19, 1980, and previously noticed in FR issue of December 2, 1980. Applicant: REED TRANSPORTATION, a corporation, 2290 West Renvana Mills, WY 82644. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in AZ, CA, CO, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY.

Note.—This republication clarifies the territorial description.

MC 145441 (Sub-132F), filed December 10, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting (1) *paper, paper products, and plastic products* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution thereof, (except commodities in bulk), from the facilities of Crown Zellerbach Corporation at (a) Greensburg, IN, (b) Orange, TX, (c) Florence, KY, and (d) St. Louis and Hazelwood, MO, to points in the U.S.

MC 145950 (Sub-86F), filed October 23, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Drive, Waco, TX 76706. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. Transporting (1) *titanium and titanium materials*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Neuces County, TX, on the one hand, and, on the other, points in the U.S.

MC 146621 (Sub-4F), filed December 8, 1980. Applicant: EUGENE GEORGE TRUCKING SERVICE, Route No. 1, Box 14A, Oswego, KS 67356. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting (1) *Steel tanks* and (2) *machinery, equipment, materials, and supplies* used in the manufacture, construction, erection and installation of steel tanks, between points in Labette County, KS, on the one hand, and, on the other, points in AR, CO, IA, IL, IN, KY, LA, GA, MO, MS, MN, NE, NM, OK, SD, TN, TX, AL, and WI.

MC 148730 (Sub-3F), filed December 10, 1980. Applicant: THE CANDY EXPRESS, INC., 1600 E. Gregory, North Little Rock, AR 72114. Representative: Harry E. McDermott, Jr., 700 Union Life Bldg., Little Rock, AR 72201. Transporting *general commodities* (except classes A and B explosives), between points in Pulaski County, AR, on the one hand, and, on the other, points in AR, TN, MO, MS, LA, and TX.

MC 151251 (Sub-2F), filed December 5, 1980. Applicant: NATIONWIDE CARTAGE SERVICE, INC., 5434 S. Parkside Ave., Chicago, IL 60638. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. Transporting *hospital supplies, medicines, and foodstuffs*, between the facilities of the Veteran's Administration Supply Depot, at or near Broadview, IL, on the one hand, and, on the other, points in the U.S.

MC 151341 (Sub-1F), filed November 24, 1980. Applicant: ALDERSHOT CARRY-ALL SERVICE, LTD., 14 Plains Road West, Burlington, Ontario, Canada L7R 3X8. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. In foreign commerce only, transporting (1) *contractor's materials, equipment, and supplies*, (2) *commodities*, the transportation of which because of size or weight require the use of special equipment, and (3) *self-propelled articles* each weighing 15,000 pounds or more, between ports of entry along the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S.

MC 153171F, filed December 15, 1980. Applicant: TWENTY FIRST CENTURY BUS SERVICE CORP., d.b.a. TWENTY FIRST CENTURY TOURS, 3 Railroad Place Maspeth, NY 11378. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10017. As a *broker*, at Maspeth, NY, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the U.S.

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Decided: December 16, 1980.

By the Commission, Review Board Number 3, Fortier and Hill. Member Hill not participating.

MC 2153 (Sub-51F), filed December 1, 1980. Applicant: MIDWEST MOTOR EXPRESS, INC., 5015 E. Main St., Bismarck, ND 58501. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. 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 ND. Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation, at applicant's written request, of authority held by it in MC 2153 and Subs thereunder which duplicate, in whole or in part, the authority sought herein.

Note.—Applicant intends to tack this authority with other authority held by it.

MC 2962 (Sub-75F), filed December 8, 1980. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana St., Evansville, IN 47711. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B, explosives, commodities in bulk: those of unusual value, and those requiring special equipment), serving points in St. Charles County, MO, as off-route points in connection with carrier's otherwise authorized regular routes.

Note.—Applicant intends to tack with authority in MC 2962, issued June 17, 1954.

MC 4483 (Sub-30F), filed December 3, 1980. Applicant: MONSON TRUCKING, INC., R.R. No. 1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. Transporting *construction and contractors' materials, equipment, and supplies*, from points in ND, SD, NE, KS, MN, IA, MO, WI, IL, MI, IN, OH, KY, TX, PA, CO, and AR to points in ND, SD, MN, IA, WI, IL, and the Upper Peninsula of MI.

MC 20992 (Sub-64F), filed December 8, 1980. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of building materials, food processing equipment, pumps, tanks, and fabricated metal products, between points in Columbia and Dodge Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 56623 (Sub-2F), filed December 1, 1980. Applicant: SHANNON YOUNG TRUCKING COMPANY, d.b.a. OIL FIELD TRUCKING SERVICE, P.O. Box 5707, Abilene, TX 79605. Representative: JAMES W. HIGHTOWER, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237 (214/339–1408). Transporting (1) *primary metal products* (including galvanized; except coating and other allied processing); (2) *fabricated metal products* (except ordinance); (3) *machinery* (except electrical); and (4) *transportation equipment* in items 33, 34, 35, and 37, respectively, as described in the Standard Transportation Commodity Code, Tariff between points in TX. Condition: Issuance of a certificate is subject to prior or condental cancellation at applicant's written request, of the outstanding certificate in MC 56623 Sub-1, granted October 21, 1975.

Note.—The purpose of this application is to convert a Certificate of Registration presently held by Applicant under MC 56623 (Sub-1), to a Certificate of Public Convenience and Necessity.

MC 58923 (Sub-61F), filed November 19, 1980. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Rd., SE, Atlanta, GA 30315. Representative: Firtz R. Kahn, 1660 L St., NW, Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between points in SC, and (2) between points in SC, on the one hand, and, on the other, points in NC and those in GA within 100 miles of Greensville, SC.

Note.—(1) Applicant intends to tack the authority sought to its existing regular routes in SC to provide through service to points in NC, and (2) Applicant states the purpose of this application is to eliminate the Greenville gateway and to enable through service under unified rights, rather than through interchange at Greenville by affiliates.

MC 63562 (Sub-77F), filed December 8, 1980. Applicant: BN TRANSPORT, INC., P.O. Box 22694, Wellshire Station, Denver, CO 80222. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. Transporting *rubber hose and couplings* for rubber hoses, between Galesburg, IL, and Iola, KS.

MC 64932 (Sub-618F), filed December 3, 1980. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Ave., Oak Lawn, IL 60453. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *bulk commodities*, in tank vehicles, between points in the U.S.

MC 70832 (Sub-32F), filed December 9, 1980. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17042. Representative: Jeremy Kahn, Suite 733, Investment Bldg., Washington, DC 20005. 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), between Pittsburgh and Harrisburg, PA, from Pittsburgh over U.S. Hwy 30 to junction U.S. Hwy 15, then over U.S. Hwy 15 to Harrisburg, and return over the same route, serving all intermediate points, and, serving those points in PA, on, south and west of a line beginning at the intersection of Interstate Hwy 80 and the PA–OH State line, then east along Interstate Hwy 80 to junction U.S. Hwy 15 near Milton, PA, then south along U.S. Hwy 15 to its intersection with the PA–MD State line, as off-route points.

Note.—Applicants intends to tack this authority at Harrisburgh, PA and Milton, PA with its existing authority and to interline at Pittsburgh, PA.

MC 105463 (Sub-11F), filed December 5, 1980. Applicant: C. E. HORNBACK, INC., 2nd and Siegel, Tama, IA 52339. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *paper and paper products*, 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 the U.S., under continuing contract(s) with Packaging Corporation of America, of Evanston, IL.

MC 107012 (Sub-624F), filed December 10, 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 (same address as applicant). Transporting *carpet cushion and automotive felt*, from Norfolk, VA, to points in IA, KS, and MN.

MC 107012 (Sub-625F), filed December 10, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *insulated copper wire, flexible steel conduit, and wrought steel pipe*, from Hicksville and Maspeth, NY, to points in the U.S.

MC 107012 (Sub-626F), filed December 10, 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 (same address as applicant). Transporting *general commodities*, from Cary and Harvard, IL, to points in the U.S., restricted to traffic originating at the facilities of General Power & Equipment Division, General Paint & Chemical Division, and Wheeler Manufacturing Division, of Cotter & Company. Condition: To the extent any certificate 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 118803 (Sub-23F) (correction), filed October 27, 1980, published in the **Federal Register**, issue of November 18, 1980, and republish, as corrected, this issue. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of plastic articles (except in bulk) between points in the U.S., under a continuing contract(s) with Mobil Chemical Company, Plastics Division and Film Division, of Macedon, NY. The purpose of this republication is to include the Film Division, as a part of the contract name of the shipper.

MC 124692 (Sub-351F), filed December 8, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). Transporting *construction materials (except commodities in bulk)* from Fremont, CA to points in OR, WA, ID, MT, NY and UT.

MC 124692 (Sub-352F), filed December 9, 1980. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: William J. Gambucci, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55401. Transporting (1) *heating units, cooling units, ventilating units, and air conditioning units*, and (2) *parts and attachments* for the commodities in (1) above, from points in Steele and Waseca Counties, MN, to points in the U.S.

MC 125433 (Sub-449F), filed December 3, 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 *oilfield commodities* (except commodities in bulk), between points in the U.S.

MC 125433 (Sub-452F), filed December 4, 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 (1) *malt beverages*, in containers, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, between points in Los Angeles County, CA, Hillsborough County, FL, Forsyth County, NC, Gregg County, TX, Shelby County, TN, and Milwaukee County, WI, on the one hand, and, on the other, points in the U.S.

MC 125433 (Sub-455F), filed December 12, 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 (1) *glass* and (2) *materials, equipment, and supplies* used in the manufacture of glass, between points in Navarro County, TX, on the one hand, and, on the other, points in the U.S.

MC 129702 (Sub-9F), filed December 8, 1980. Applicant: CARPET TRANSPORT, INC., Rte. 5, Lovers Lane Road, Calhoun, GA 30701. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting (1) *textiles and textile products and floor coverings*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in AL, FL, GA, KY, LA, MS, NC, SC, TN, and VA.

MC 138882 (Sub-377F), filed December 4, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *railroad/headway grade crossings, precast reinforced concrete crossing slabs, and pre-stressed concrete 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 the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Szarka Enterprises, Inc.

MC 140193 (Sub-12F), filed December 1, 1980. Applicant: RICH GRANT, INC., 910 West 24th St., Ogden, UT 84401. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City UT 84111. Transporting *paper and paper products*, between points in WI and MN, on the one hand, and, on the other, points in UT, ID, CO and WY.

MC 143032 (Sub-33F), filed December 5, 1980. Applicant: THOMAS J. WALCZYNSKI d.b.a. WALCO TRANSPORT, 3112 Truck Center Dr., Duluth, MN 55806. Representative: Thomas J. Walczynski (same address as applicant). Transporting *lime and salt* (1) from points in Douglas County, WI, to points in IA, Upper Peninsula of MI, MN, ND and SD, and (2) from points in St. Louis County, MN, to points in IA, the Upper Peninsula of MI, ND, SD and WI.

MC 146703 (Sub-21F), filed December 9, 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 *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.

MC 146753 (Sub-15F), filed December 5, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: E. Stephen Heisley, 666 Eleventh St., NW No. 805, Washington, DC 20001. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of sound recordings, (except commodities in bulk), between points in the U.S. (except AK and HI).

MC 146753 (Sub-16F), filed December 5, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. Transporting *such commodities* as are dealt in or used by food business houses and chain grocery stores, between points in Lee County, IL and Tippecanoe County, IN, 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 Purity Mills, a Division of Stokely-Van Camp, Inc.

MC 150432 (Sub-11F), filed December 2, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street, NW, Suite 1111, Washington, DC 20036. Transporting *such commodities* as are dealt in or used by wholesale, retail, and discount stores (except the U.S.) under a continuing contract(s) with Ross Laboratories, Inc., of Columbus, OH.

MC 150693 (Sub-1F), filed December 8, 1980. Applicant: GENERAL MOTOR LINES, INC., P.O. Box 9583, Baltimore, MD 21237. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, Md 21740. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of automotive products, between points in the U.S., under continuing contract(s) with STP Corporation, of Ft. Lauderdale, FL.

MC 150783 (Sub-3F), filed December 1, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as applicant). Transporting *malt beverages*, between points in CO, GA, MO, and NE, on the one hand, and, on the other points in AR and KS.

MC 150943 (Sub-1F), filed December 10, 1980. Applicant: F. H. SMITH TRANSPORT CO., INC., Rt. A, Box 83, Yellville, AR 72687. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. Transporting (1)(a) *porch seings and lawn furniture*, and (b) *fixtures* for porch swings and lawn furniture, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Marion County, AR, and Chilton County, AL, on the one hand, and, on the other, points in the U.S.

MC 151652 (Sub-1F), filed December 3, 1980. Applicant: JOHN C. MEACHAM AND QUENTIN HAROLD MAPLES d.b.a. M & M OILFIELD TRUCKING, 3737 Gilmore Ave., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Transporting *such commodities* as are used in the establishment, maintenance, or dismantling of well drilling, pipelines, refineries, and cracking or casinghead plants, between points in CA, on the one hand, and, on the other, points in AZ, CO, ID, KS, MT, NV, NM, OK, OR, TX, UT, WA, and WY.

MC 151653 (Sub-2F), filed December 21, 1980. Applicant: GLOSSON ENTERPRISES, INC., Route 15, Box 55, Lexington, NC 27292. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Transporting (1) *petroleum lubricants, empty petroleum lubricant containers, and pumps and pump parts*, between points in PA and MD, on the one hand, and, on the other, points in NC, SC, and VA; and (2) *beverages* between Richmond, VA, on the one hand, and, on the other, points in NC and SC.

MC 151723 (Sub-1F), filed December 9, 1980. Applicant: G.A. SIMMS, d.b.a. SIMMCO CARRIERS, 8704 S. Olie,

Oklahoma City, OK 73139. Representative: G.A. Simms (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.

MC 151792 (Sub-1F), filed December 8, 1980. Applicant: COLES EXPRESS, 444 Perry Rd., Bangor, ME 04401. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. Transporting *general commodities* (except household goods as defined by the Commission and commodities of unusual value), between points in the U.S., under continuing contract(s) with The Jackson Laboratory, of Bar Harbor, ME. Condition: To the extent any certificate 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 151873 (Sub-1F), filed December 5, 1980. Applicant: PRIDE CARGO CARRIERS, INC., 1920 West First St., Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of power tools and labor saving devices, between points in the U.S., under continuing contract(s) with Black & Decker (U.S.), Inc., of Towson, MD. 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 152952 (Sub-1F), filed December 9, 1980. Applicant: WAYNE SMITH, d.b.a. WAYNE SMITH TRUCKING COMPANY, Route 2, Box 462, Jacksonville, AL 36265. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *lumber, lumber products, and forest products*, between points in Calhoun, Etowah, and Talladega Counties, AL, on the one hand, and, on the other, points in AR, FL, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NY, OH, PA, TN, and WI.

MC 153043 (Sub-1F), filed December 9, 1980. Applicant: WEST SHORES LEASING CORPORATION, 7931 N.E. Halsey St., Suite 201, Portland, OR 97213. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at New York, NY, San Francisco, Los Angeles, San Diego, Sacramento, Bakersfield, Santa Barbara, Carmel and Palm Springs, CA, Miami, FL, Phoenix and Scottsdale, AZ, and Las Vegas, and Reno, NV, and extending to 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 or submit an affidavit indicating why such approval is unnecessary.

MC 153052F, filed December 5, 1980. Applicant: HILL'S VAN SERVICE, INC., P.O. Box 188, Ocala, FL 32670. Representative: Gregory E. Tucci, 18 North West 3rd Avenue, Ocala, FL 32670. Transporting *household goods* as defined by the Commission between points in FL, GA, AL, SC, NC, MD, VA, and DC.

MC 153063F, filed December 8, 1980. Applicant: KOHORST BEVERAGE COMPANY, INC., W. Sinclair Lewis Ave., Sauk Centre, MN 46378. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *malt beverages*, from Milwaukee, WI, and Peoria, IL, to points in MN.

MC 153093F, filed December 10, 1980. Applicant: ASSOCIATED MOVING & STORAGE, INC., P.O. Box 23053, New Orleans, LA 70183. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1112, Washington, DC 20036. Transporting *household goods*, as defined by the Commission, between points in LA, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, TN, and TX.

**Volume No. OP2–136**

Decided: December 18, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 2202 (Sub-645F), filed December 1, 1980. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving points in St. Charles County, MO, as off-route points in connection with carrier's otherwise authorized regular-route operations.

MC 2202 (Sub-646F), filed December 12, 1980. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between Newnan and Raymond, GA: from Newnan over GA Hwy 34 to junction GA Hwy 74, then over GA Hwy 74 to junction GA Hwy 85, then over GA Hwy 85 to junction GA Hwy 16, then over GA Hwy 16 to Raymond, and return over the same route, serving all intermediate points.

MC 115352 (Sub-7F), filed December 5, 1980. Applicant: R.H. REDIKER TRANSPORT, LTD., P.O. Box 30, Beebe, Quebec, Canada JOB 1 E O. Representative: John P. Monte, P.O. Box 568, Barre, VT 05641. Transporting *stone working abrasives*, between Buffalo and Niagara Falls, NY, on the one hand, and, on the other, ports of entry on the international boundary line between the U.S. and Canada at or near Buffalo and Niagara Falls, NY.

MC 124692 (Sub-353F), filed December 12, 1980. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59801. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *paper lumber wrap*, from Chicago, IL, to points in CA, ID, OR, WA, UT, MT, SD, and ND.

MC 129903 (Sub-17F), filed October 27, 1980. Applicant: EMPORIA MOTOR FREIGHT, INC., Rte 5, Box 1103, Emporia, KS 66801. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 6100 Poplar Avenue, Memphis, TN 38137. Regular route transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives). (1) Between Kansas City, MO and Wichita, KS, over Interstate Hwy 35; (2) from Kansas City, MO over Interstate Hwy 70 to Topeka, KS, then over Interstate Hwy 35 to Wichita, KS, and return over the same route, serving points in Lyon County, KS and Council Grove, KS, as off-route points.

**Note.**—Applicant indicates intention to interline at Kansas City, MO and Wichita, KS.

MC 142672 (Sub-159F), filed December 9, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Post Office Box 1065, Fayetteville, AR 72701. Transporting: *alcoholic liquors* and *materials, equipment and supplies* used in the manufacture and distribution of alcoholic liquors (except in bulk, in tank vehicles) between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151982 (Sub-1F), filed December 12, 1980. Applicant: AMERICAN EAGLE

LINE, INC., 3000 Mulford SE, Grand Rapids, MI 49506. Representative: Mark V. Palazzolo, P.O. Box 9177, Wyoming, MI 49509. 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 a continuing contract(s) with National Box Corporation, of Grand Rapids, MI. Condition: Issuance of any certificate will be withheld until submission of applicant's financial statement.

MC 153122F, filed December 9, 1980. Applicant: WESTERN WHOLESALE TRANSPORT DIVISION, INC., Rt. 9, Box 107, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *building materials*, (a) between points in OH, on the one hand, and, on the other, points in WY, UT, ID, and CA, and (b) between points in CA, on the one hand, and, on the other, points in ID, UT, and WY.

MC 153152F, filed December 11, 1980. Applicant: NELSON TRANSPORT, INC., 3201 DeAnza Place, San Ramon, CA 94583. Representative: John G. Lyons, 220 Bush Street, Suite 1418, San Francisco, CA 94104. Transporting *such commodities* as are dealt in or used by a building supply distributor, between points in the U.S., under continuing contract(s) with Nelson Supply Company, Inc., of Hayward, CA.

**Volume No. OP4–177**

Decided: December 23, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton and Liberman.

MC 74176 (Sub-3F), filed December 15, 1980. Applicant: WILES TRANSPORT, INC., 16901 Van Dam Rd., South Holland, IL 60473. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602. Transporting (1) *such commodities* as are dealt in by food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from Chicago, IL, to points in PA, NY, MD, NJ, MA, CT, NC, MS, AL, GA, and OH.

MC 117786 (Sub-218F), filed December 16, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: Baldo J. Lutich, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), between the facilities used by the Drackett Products Company, on the one hand, and, on the other, points in the U.S.

MC 127306 (Sub-15F), filed December 16, 1980. Applicant: M. W. McCURDY & CO., INC., 401 Nora's Lane, Houston, TX 77022. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *meat*, between the facilities of Portion-Trol Foods, Inc., at Mansfield, TX, on the one hand, and, on the other, points in CA.

MC 135306 (Sub-8F), filed December 16, 1980. Applicant: DAN'S TRANSIT, INC., 1254 Medina Rd., Medina, OH 44256. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *Brick and mosonry products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in PA, OH, NY, NJ, NE, NC, SC, GA, MD, and CT, on the one hand, and, on the other, points in MA, NH, VT, ME, and RI.

MC 135866 (Sub-4F), filed December 16, 1980. Applicant: JACK L. MASSENDER, d.b.a. ZILLAH HAULING SERVICE, 6052 N. Pittsburg St., Spokane, WA 99270. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. Transporting (1) *iron and steel articles, and aluminum articles*, and (2) *construction materials and supplies*, between points in the U.S., under continuing contract(s) with Artistic Ironworks, Inc., and Savage Wholesale Building Materials, Inc., both of Spokane, WA.

MC 139926 (Sub-5F), filed December 15, 1980. Applicant: MILLER TRUCKING CO., INC., P.O. Box Drawer "D", Stroud, OK 74079. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *General commodities* (except 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 Kroger Company, of Cincinnati, OH.

MC 143956 (Sub-26F), filed December 16, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Box Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, 3574 Piedmont Rd., Atlanta, GA 30305. Transporting *pet foods and canned foodstuffs*, between Terminal Island, CA, on the one hand, and, on the other, points in the U.S.

MC 146646 (Sub-136F), filed December 16, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting (1) *canned goods*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of canned goods, between Lindale, TX, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, VA, and WV.

MC 150436 (Sub-2F), filed December 16, 1980. Applicant: CHEM-HAULERS, INC., 118 E. Mobil Plaza, Florence, AL 35631. Representative: Hampton M. Mills (same address as applicant). Transporting *paper and paper products, chemicals, and wood and wood products* and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, between points in the U.S., under continuing contract(s) with Champion International Corporation of Hamilton, OH.

MC 151896 (Sub-1F), filed December 15, 1980. Applicant: JENKO TRANSPORTATION, INC., R.R. No. 5, Box 117, Winchester, KY 40391. Representative: George M. Catlett, Suite 708 McClure Bldg., Frankfort, KY 40601. 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 Clark County, KY, on the one hand, and, on the other, points in IL, IN, MI, NC, OH, TN, and WI.

MC 153176, filed December 12, 1980. Applicant: SPECIAL COMMODITIES, INC., RFD 8, George Washington Hwy, Smithfield, RI 02917. Representative: A. Josheph Mega, 175 Forbes St., Riverside, RI 02915. Transporting *(1) buildings, knocked down, iron and steel articles, and wood 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 Deck House, Inc., of Action, MA.

**Volume No. OP4–178**

Decided: December 29, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton and Liberman.

MC 121066 (Sub-13F), filed December 10, 1980. Applicant: NEBRASKA TRANSPORT CO., INC., P.O. Box 621, Scottsbluff, NE 69361. (A) Over regular routes, transporting *general commodities* except classes A and B explosives and household goods as defined by the Commission), (1) between Omaha, NE and Scottsbluff, NE, (a) from Omaha over Interstate Hwy 80 to junction NE Hwy 71, then over NE Hwy 71 to Scottsbluff, and return over the same routes, and (b) from Omaha

over Interstate Hwy 80 to junction NE Hwy 61, then over NE Hwy 61 to Ogallala, NE, then over U.S. Hwy 26 to Scottsbluff, and return over the same route, as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, (2) between Omaha, NE and Chadron, NE, from Omaha over Interstate Hwy 80 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Grand Island, NE, then over NE Hwy 2 to Alliance, NE, then over U.S. Hwy 385 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Chadron, and return over the same route, (3) between Denver, CO and Scottsbluff, NE, (a) from Denver over U.S. Hwy 85 to Cheyenne, WY, then over Interstate Hwy 80 to junction NE Hwy 71, then over NE Hwy 71 to Scottsbluff, and return over the same route, and (b) from Denver over Interstate Hwy 76 to junction CO Hwy 52, then over CO Hwy 52 to junction CO Hwy 14, then over CO Hwy 14 to junction CO Hwy 71, then over CO Hwy 71 to junction NE Hwy 71, then over NE Hwy 71 to Scottsbluff, and return over the same route, as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, (4) between Denver, CO and Sidney, NE, from Denver over Interstate Hwy 76 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Sterling, CO then over U.S. Hwy 138 to junction CO Hwy 113, then over U.S. Hwy 113 to NE Hwy 19, then over NE Hwy 19 to Sidney, and return over the same route, and (5) serving in connection with routes (A)(1) through (4) points in NE, those in Douglas, Elbert, Park, Jefferson, Arapahoe, Adams, Boulder, Weld, Morgan, Washington, Logan, Larimer, Sedgwick, Phillips, and Yuma Counties, CO, and those in Albany, Laramie, Platte, Goshen, Niobrara, Converse, and Natrona Counties, WY, as intermediate and off-route points; and (B) Over irregular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in NE, those in Albany, Laramie, Platte, Goshen, Niobrara, Converse, and Natrona Counties, WY, and those in Adams, Arapahoe, Boulder, Denver, Douglas, Elbert, Gilpin, Larimer, Logan, Morgan, Park, Phillips, Sedgwick, Washington, Weld, and Yuma Counties, CO. CONDITION: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's request, of certificate issued under MC-121066 and subs thereto, and MC-110483 and subs thereto, which duplication in full, or in part the authority herein.

MC 135556 (Sub-10F), filed December 16, 1980. Applicant: CARPENTER BROTHERS TRUCKING, INC., 3282 S. R. 98, Bucyrus, OH 44820. Representative: Gerald P. Wadkowski, 85 E. Gay St., Columbus, OH 43215. Transporting (1) *plastic and rubber products* and (2) *clay*, between points in the U.S., under continuing contract(s) with The Swan Hose Division, Amerace Corporation of Bucyrus, OH.

MC 142686 (Sub-52F), filed December 15, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). Transporting (1) *insecticides* and (2) *pet supplies*, in containers, between points in the U.S., under continuing contract(s) with Zoecon Industries of Dallas, TX.

MC 148766 (Sub-4F), filed December 12, 1980. Applicant: SMITH MOTOR FREIGHT, INC., 9112 S. Villa, Oklahoma City, OK 73159. Representative: Alfred Smith (same address as applicant). 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 Oklahoma City, OK and Liberal, KS: From Oklahoma City over Interstate Hwy 40 to the junction of OK Hwy 8, then over OK Hwy 8 to Watonga, OK, then over OK Hwy 3 to the junction of U.S. Hwy 83, then over U.S. Hwy 83 to Liberal, and return over the same route, serving all intermediate points, (2)(a) Between Watonga and Woodward, OK: From Watonga over OK Hwy 51A to Fairview, OK, then over OK Hwy 15 to Woodward, and (b) From Watonga over OK Hwy 3 to the junction of OK Hwy 58, then over OK Hwys 58 and 58A to the junction of U.S. Hwy 60, then over U.S. Hwy 60 to the junction of U.S. Hwy 281, then over U.S. Hwy 281 to the junction of OK Hwy 3, then over OK Hwy 3 to Woodward, and return over the same routes serving all intermediate points, (3) between Seiling and Chester, OK, over U.S. Hwy 281, serving all intermediate points, (4) Between Seiling, OK and Perryton, TX: From Seiling over U.S. Hwy 60 to the junction of U.S. Hwy 283, then over U.S. Hwy 283 to the junction of OK Hwy 15, then over OK Hwy 15 to TX Hwy 15, then over TX Hwy 15 to Perryton, and return over the same route, serving all intermediate points, (5) Between Vici and Buffalo, OK: From Vici over OK Hwy 34 to Woodward, OK, then over U.S. Hwy 183 to Buffalo, and return over the same route, serving all intermediate points, (6) between Woodward and Shattuck, OK over OK Hwy 15, serving all intermediate points, (7) between Arnette and May, OK, over OK Hwy 46, serving all intermediate points, (8) Between Booker, TX and Forgan, OK: From Booker over TX Hwy 23, to OK Hwy 23, then over OK Hwy 23 to the junction of U.S. Hwy 64, then over U.S. Hwy 64 to Forgan, and return over the same route, serving all intermediate points, and (9) Between Woodward, OK and Liberal, KS: From Woodward over OK Hwy 34 to the junction of U.S. Hwy 64, then over U.S. Hwy 64 to the junction of U.S. Hwy 83, then over U.S. Hwy 83 to Liberal, and return over the same route, serving all intermediate points.

**Note.**—Applicant intends to tack.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81-173 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

## Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC

Regional Office to which protests are to be transmitted.

**Note.**—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

**Motor Carriers of Property**

**Notice No. F–83**

The following applications were filed in region I. Sent protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, room 501, Boston, MA 02114.

MC 153168 (Sub-1–1TA), filed December 15, 1980. Applicant: ROCKINGHAM CARRIAGE SERVICE, INC., Rt. #1 Bypass—P.O. Box 1349, Portsmouth, NH 03801. Representative: Robert G. Parks, 20 Walnut Street—Suite 101, Wellesley Hills, MA 02181. *New and used vehicles, wrecked or disabled motor vehicles, and trailers (except mobile homes), by wrecker or towing equipment, by vehicle carrying equipment and in driveaway service,* between points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, PA, VA and DC. Supporting shipper(s): There are six statements of support which may be examined at the I.C.C. Regional Office at Boston, MA.

MC 147242 (Sub-1–3TA), filed December 15, 1980. Applicant: 12–90 PLAZA CORP., T/A PLAZA FREIGHT TRANSPORT, 12–90 Plaza Road, Fair Lawn, NJ 07410. Representative: Arthur Liberstein, P.C., 888 Seventh Avenue, New York, NY 10116. *Contract carrier:* irregular routes: *(1) Chemicals, toilet preparations, soaps (2) such commodities as are dealt in by department stores, supermarkets, hardware stores and drug stores and (3) equipment, materials and supplies used in the manufacture, sale and distribution of (1) and (2), except commodities in bulk,* (a) between Clifton and Mays Landing, NJ; W. Springfield, MA; and Memphis, TN on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MA, MI, MN, MO, NE, NJ, OH, TN, WV, WI, NV, UT, CO, CA, OR and WA, and (b) between Sparks, NV, on the one hand, and, on the other CA, CO, OR, WA and UT. Supporting shipper: American Cyanamid Company, Berden Avenue, Wayne, NJ 07470.

MC 128541 (Sub-1–1TA), filed December 15, 1980. Applicant: WESLEY W. MACOMBER d.b.a. W. W. MACOMBER TRUCKING, Route No. 1A, Gardiner, ME 04345. Representative: Wesley W. Macomber, Route No. 1A, Gardiner, ME 04345. *Contract carrier:* Irregular routes: *Paperboard* from Yorktowne Paper Mills, Inc., Gardiner, ME to all points in MA and RI under a continuing contract with Yorktowne Paper Mills of Maine, Inc., Gardiner, ME. Supporting shipper: Yorktown Paper Mills of Maine, Inc., Water Street, Gardiner, ME 04345.

MC 153166 (Sub-1–1TA), filed December 15, 1980. Applicant: J. H. MAXYMILLIAN, INC., 86 South Main Street, Lanesboro, MA 01237. Representative: James H. Maxymillian, 86 South Main Street, Lanesboro, MA 01237. *Hazardous and non-hazardous waste and material* between all points in all states east of the Mississippi River. Supporting shippers: General Electric Company, 100 Woodlawn Ave., Pittsfield, MA 01201; SCA Chemical Waste Services, Inc., 1550 Balmer Road, Model City, NY 14107.

MC 153167 (Sub-1–1TA), filed December 15, 1980. Applicant: ANGELICA ENTERPRISES, INC., Park Circle, Angelica, NY 14709. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. *Contract carrier:* irregular routes: *Fabricated steel articles, and materials, supplies, and equipment used in the manufacture, production, sale, and distribution of such articles, between Belfast and Belmont,* NY on the one hand, and, on the other, points in CT, DE, GA, IL, IN, ME, MD, MA, NH, NJ, NY, OH, PA, RI, SC, VT, VA, and WV, under continuing contract(s) with Bulk-Tainer Corp. and Genesee Steel and Tank Incorporated. Supporting shippers: Bulk-Tainer Corp., 20 Erie Street, Belmont, NY 14813; Genesee Steel and Tank Incorporated, P.O. Box 367, Belfast, NY 14713.

MC 153161 (Sub-1–1TA), filed December 15, 1980. Applicant: WAYNE SOLVENTS, INC., 120 Grace Ave., Newark, NY 14513. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Contract carrier:* irregular routes: *Chemicals, petroleum products and solvents* between all points in the US under continuing contracts(s) with Wayne Solvents, Inc., Chemical & Metallurgical Enterprises, Inc., Arcadia Chemical Industrises, Inc. Supporting shippers: Wayne Solvents, Inc., 120 Grace Ave., Newark, NY 14513; Chemical & Metallurgical Enterprises, Inc., 512 East Ave., Newark, NY 14513; Arcadia Chemical Industries, Inc., 512 East Ave., Newark, NY 14513.

MC 118848 (Sub-1–1TA), filed December 15, 1980. Applicant: DOMENICO BUS SERVICE, INC., 71 New Hook Acess Road, Bayonne, NJ 07002. Representative: Larsh B. Mewhinney, Esq., Moore Berson Lifflander & Mewhinney, 555 Madison Ave., New York, NY 10022. *Contract Carrier:* irregular routes: *Passengers and their baggage,* between New York, NY, and Atlantic City, NJ, under contract with Harrah's Marina Hotel Casino. Supporting shipper: Harrah's Marina Hotel Casino, 1725 Brigantine Boulevard, Atlantic City, NJ 08401.

MC 59570 (Sub-1–5TA), filed December 15, 1980. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, NJ 08753. Representative: James B. Callanan, 2075 Lakewood Road, Toms River, NJ 08753. *Iron and steel articles, and materials, equipment, and supplies used in the manufacture and distribution of iron and steel articles,* between points in the New York Commercial Zone on the one hand, and, on the other, in and east of IL, MS, TN, WI. Supporting shipper: Raritan River Steel Company, P.O. Box 309, Perth Amboy, NJ, 08753.

MC 381 (Sub-1–3TA), filed December 16, 1980. Applicant: GENOVA EXPRESS LINES, INC., P.O. Box 136, Williamstown, NJ 08094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Foodstuffs, and materials, equipment, and supplies used in the manufacture and sale of foodstuffs (except commodities in bulk in tank vehicles),* between the facilities of J. H. Filbert, Inc., located at or near Baltimore, MD and Atlanta, GA, on the one hand, and, on the other, points in VA, DE, NY, NJ, PA, CT, MA, FL, NC, SC, TN, and WV. Supporting shipper: J. H. Filbert, Inc., 3701 Southwestern Blvd., Baltimore, MD 21229.

MC 59264 (Sub-1–4TA), filed December 15, 1980. Applicant: SMITH & SOLOMON TRUCKING CO., How Lane—P.O. Box 2015, New Brunswick, NJ 08903. Representative: Zoe Ann Pace, Esq., Zelby, Burstein, Hartman & Burstein, Suite 2373, One World Trade Center, New York, NY 10048. *Sanitary pads and napkins, pads or padding, NOIBN, toilet preparations, NOIBN,* between the facilities of Personal Products Co. at or near Milltown, NJ on the one hand, and, on the other hand, the counties of Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester, Wicomico, Worcester, Somerset, Charles, St. Mary's, Calvert, Anne Arundel in MD; The counties of Accomac, Caroline, Charles City, Chesterfield, Dinwiddie, Essex, Gloucester, Greensville, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, Nansemond, New Kent, Spotsylvania, Stafford, Suffolk, Sussex, Surry, Westmoreland, York and all independent cities on and East of Route I–95, VA, excepting these points presently authorized to serve under

Docket MC 59264 (Sub-61); The counties of Kent, New Castle and Sussex, DE, excepting points in such counties presently authorized to serve under Docket MC 59264 and Sub-59. Supporting shipper: Personal Products Co., Van Liew Ave., Milltown, NJ 08850.

MC 125403 (Sub-1–4TA), filed December 15, 1980. Applicant: S.T.L. TRANSPORT, INC., P.O. Box 369, Newark, NY 14513. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Malt beverages (in containers) and materials, equipment and supplies used in the manufacture, sale and distribution thereof (except in bulk)* between points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VT and DC (restricted to traffic originating at or destined to the facilities of Wayne Beer Distributors of Newark, NY). Supporting shipper: Wayne Beer Distributors, Welcher Road, Newark, NY 14513.

MC 151941 (Sub-1–2 TA), filed December 11, 1980. Applicant: DELMONT E. HARTT, P.O. Box 26, Etna, ME 04435. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *General commodities (except household goods as defined by the Commission, liquid commodities in bulk, explosives, and commodities of unusual value)* between points in ME, on the one hand, and, on the other, points in the U.S. on the International Boundary Line between the U.S. and Canada pursuant to a bilateral contract with Northern Products Log Homes, Inc. Supporting shipper: Northern Products Log Homes, Inc., Bomarck Road, Bangor, ME.

MC 148025 (Sub-1–1 TA), filed December 9, 1980. Applicant: TRENOAK TRUCKING COMPANY, INC., 735 Commercial Avenue, Carlstadt, NJ 07072. Representative: Susan C. Lee, 2633 Trenton Avenue, Philadelphia, PA 19125. *Contract carrier:* irregular notes: *Alcoholic and non-alcoholic beverages in cases and bottles and related promotional materials* between points in NY and NJ. Supporting shippers: Gotam Beer Co., Inc., 735 Commercial Ave., Carlstadt, NJ 07072; Jacquin-New York, Inc., 735 Commercial Ave., Carlstadt, NJ 07072.

MC 148198 (Sub-1–3 TA), filed December 12, 1980. Applicant: A. MATTEO TRUCKING, INC., 1465 Crown Point Road, Verga, NJ 08093. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *Cat litter, in bags,* from Pennsauken, NJ, to New York, NY, and its Commercial Zone, Nassau, Suffolk and Westchester Counties, NY, and Landover, MD. Supporting shipper: Superior Pet Co., 470 Atlantic Ave., Boston, MA 02210.

MC 128343 (Sub-1–23 TA), filed December 11, 1980. Applicant: C–LINE, INC., 303 Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW, Washington, DC 20036. *Contract Carrier:* Irregular Routes: *General Commodities (except household goods as defined by the Commission and Classes A and B explosives)* between all points in the U.S., under continuing contracts with L.I.G. of England, Ltd., and/or its divisions. Supporting shippers: L.I.G. of England, Ltd., and/or its Divisions, 50 Sims Avenue, Providence, RI 02909.

MC 59570 (Sub-1–4 TA), filed December 9, 1980. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, NJ 08753. Representative: James B. Callanan, 2075 Lakewood Road, Toms River, NJ 08753. *Iron and steel articles, and materials, equipment, and supplies used in the manufacture and distribution of iron and steel articles,* between points in Wilmington, DE on the one hand and on the other NJ, PA, NY, CT, RI, MA, NH, ME. Supporting shipper: Forbes Steel Corp., P.O. Box 329, Canonsburg, PA 15317.

MC 152789 (Sub-1–1TA), filed December 10, 1980. Applicant: S. R. MEROLA d.b.a. MEROLA ENTERPRISES, 51 Bay Harbor Boulevard, Bricktown, NJ 08723. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. *Contract carrier:* irregular routes: *Hazardous Waste Materials* from points in MA, RI, CT, NY, NJ and PA to East Brunswick, NJ; Glen Burnie, MD; Emelle, AL; and Livingston, LA. Supporting shipper: Browning-Ferris Industries, Inc., 714 Division Street, P.O. Box 539, Elizabeth, NJ 07207.

MC 150238 (Sub-1–2TA), filed December 11, 1980. Applicant: ARTHUR MOODY d.b.a. SWD TRANSPORTATION, Box 731, Southwest Harbor, ME 04679. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *General Commodities,* between points in the U.S. under continuing contracts with Maine Equipment Company, Inc. and A. L. Stewart & Sons. Supporting shippers: Maine Equipment Company, Inc., Box 47, Herman, Maine 04401; and A. L. Stewart & Sons, Cherryfield, Maine 04622.

MC 153090, (Sub-1–1TA), filed December 9, 1980. Applicant: R&J TRANSPORTATION SERVICES, INC., 644 Whitehead Rd., Trenton, NJ 08648. Representative: William A Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Metal products and materials, supplies and equipment used or useful in the manufacture, sale or distribution of metal products,* between the facilities of Metal Litho Corporation, Metal Litho International, Inc. and Metal Litho (West Virginia) Corporation at or near Elizabeth and Trenton, NJ and Weirton, WV, on the one hand, and, on the other, points in the U.S., under a continuing contract with Metal Litho Corporation of Elizabeth, NJ, Metal Litho International, Inc. of Trenton, NJ, and Metal Litho (West Virginia) Corporation of Weirton, WV. Supporting shippers: Metal Litho Corporation, Metal Litho International, Inc., Metal Litho (West Virginia) Corporation, 582–612 Progress St., Elizabeth, NJ 07201.

MC 3328 (Sub-1–1TA), filed December 11, 1980. Applicant: A. D. McMullen, Inc., 640 State Rd., N. Dartmouth, MA 02747. Representative: Francis J. McGuirk, 72 N. Water Street, New Bedford, MA 02740. *Household Goods,* between points in MN, IA, MO, AR, TX, LA, AL, IN, IL, IN, WI, OH, KY, WV, GA, SC, FL, MS, ME, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, NC, MI, NH, and Washington, DC. Supporting shipper: Acushnet Co., P.O. Box E–916, New Bedford, MA 02742.

MC 151457 (Sub-1–2TA), filed December 11, 1980. Applicant: BOMBARDO CORPORATION, d.b.a. FAIRFIELD FREIGHT LINES, 48 Mopus Bridge Road, Ridgefield, CT 06877. Representative: Alexander J. Holland, Esq., c/o Duel and Holland, 283–283 Greenwich Ave., Greenwich, CT 06830. *Cotton piece goods and general textile commodities,* from, to or between the following points or described areas: Los Angeles, Englewood and Carson, CA; (city or) Oregon, IL; Robesonia, PA; Champlain, NY; Clifton, NJ; Norwich, CT; Pawtucket, RI, and Dalton, GA. Supporting shipper: Michael Bayer, Inc., 4 Grand Park, Scarsdale, NY 10583.

MC 61502 (Sub-1–2TA), filed December 11, 1980. Applicant: WM. McCULLOUGH TRANSPORTATION CO., INC., 1130 U.S. Hwy. No. 1, Elizabeth, NJ 07201. Representative: Ronald I. Shapps, Esq., 450 Seventh Ave., New York, NY 10123. *Borax and boric acid,* between the New York, NY, commercial zone and Horseheads, NY. Supporting shipper: T. C. Container Co., 32 Broadway, New York, NY 10123.

MC 56082 (Sub-1–2TA), filed December 10, 1980. Applicant: DAVIS & RANDALL, INC., 52 E. Main Street, Fredonia, NY 14063. Representative:

Anthony C. Vance, Esq., 1307 Dolley Madison Blvd., McLean, VA 22101. *Paper and paper products, and materials, equipment and supplies used in the manufacture of paper and paper products (except commodities in bulk and those which because of size or weight require the use of special equipment)* between the facilities of Hammermill Paper Co. at or near Erie, PA; Lock Haven, PA; and Oswego, NY, on the one hand, and on the other, points in the U.S. in and east of MN, IA, MO, OK, AR, and LA. Supporting shipper: Hammermill Paper Co., P.O. Box 1440, 1540 East Lake Road, Erie, PA 16533.

MC 149030 (Sub-1–1TA), filed December 10, 1980. Applicant: COUSINS LEASING CORPORATION, Arnold Drive, Huntington, NY 11743. Representative: William J. Augello, Esq., Augello, Pezold & Hirschmann, P.C., 120 Main St., P.O. Box Z, Huntington, NY 11743. *Contract Carrier:* Irregular Routes: *Paper, bags, plastic film and plastic products, and such commodities as are dealt in by retail and chain grocery houses, and materials, equipment and supplies used in the manufacture, sale and distribution of such products,* between points in the U.S., under continuing contracts with Samson Paper Bag Co., Inc. of Huntington, NY; Samson Midamerica, Inc. of Indianapolis, IN; Samson Midatlantic, Inc. of Savage, MD; Equitable Bag Co., Inc. of Long Island City, NY; Trio Packaging Corp. of Huntington, NY, and Western Kraft Paper group, Willamette Industries, Inc. of Langhorne, PA. Supporting shippers: Western Kraft Paper Group, Willamette Industries Inc., 1050 Wheeler Way, Langhorne, PA 19047; Samson Midatlantic Inc., Savage, MD 20863; Samson Midamerica Inc., 8111 Zionville Rd., Indianapolis, IN 46268; Samson Paper Bag Co., Inc., Arnold Drive, Huntington, NY 11743; Equitable Bag Co., Inc., 45–50 Van Dam Street, Long Island City, NY 11101; Trio Packaging Corp., Arnold Dr., Huntington, NY 11743.

MC 135684 (Sub-1–2TA), filed December 9, 1980. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, NJ 08822. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Ave., NW., Washington, D.C. 20006. *Such commodities as are dealt in by grocery, supermarket and chain stores and food business houses* from the facilities of W & F Manufacturing Co., Inc. at Buffalo, NY, to all points in the U.S. Supporting shipper: W & F Manufacturing Co., Inc., 251 Seneca Street, P.O. Box 126, Buffalo, NY 14240.

**Republication**

MC 121342 (Sub-1–1TA), filed November 3, 1980. Applicant: GALLO CONSTRUCTION CO., 845 Sandwich Road, Sagamore, MA 02561. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Salt, in bulk,* from Boston and Taunton, MA, to points in ME, NH, VT, MA, CT, and RI. Supporting shipper: Cargill, Inc., P.O. Box 150, Watkins Glen, NY 14891.

MC 142126 (Sub-1–1TA), filed December 17, 1980. Applicant: FOAM TRANSPORT, INC., 201 Ballardvale Street, Wilmington, MA 01887. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Contract carrier:* irregular routes: *plastic articles and equipment, materials, and supplies used in the manufacture, sale, and distribution of plastic articles (except in bulk),* from Leola, PA to Waxahachie, TX and Horse Cave, KY, under a continuing contract with Dart Container Corporation of Pennsylvania. Supporting shipper: Dart Container Corporation of Pennsylvania, 60 East Main Street, Leola, PA 17540.

MC 15859 (Sub-1–1TA), filed December 17, 1980. Applicant: THE HINE LINE, 247 Emmet Street, Newark, NJ 07114. Representative: Michael D. McCormick, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *(a) Iron and steel articles* and *(b) materials, equipment, and supplies used in the manufacture thereof,* between Middlesex County, NJ, on the one hand, and, on the other, points in and east of MN, IA, MO, OK, and TX. Restricted to traffic originating at or destined to the facilities of Raritan River Steel Company located at or near Perth Amboy, NJ. Supporting shipper: Raritan River Steel Company, P.O. Box 309, Perth Amboy, NJ 06882.

MC 143563 (Sub-1–2TA), filed December 18, 1980. Applicant: R. C. MOORE, INC., P.O. Box 436, Waldoboro, ME 04572. Representative: John C. Lightbody, Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *General commodities (except household goods as defined by the Commission, explosives and commodities of unusual value)* between points in ME, MA and GA on the one hand, and, on the other hand, points in the U.S. (except AK and HI). Supporting shippers: There are ten statements in support of this application which may be examined at the I.C.C. Regional Office, Boston, MA.

MC 151639 (Sub-1–6TA), filed December 17, 1980. Applicant: COMMAND TRANSPORTATION, INC., 280 Eastern Avenue, Chelsea, MA 02150. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Alcoholic and non-alcoholic beverages (except in bulk),* between Boston, MA, on the one hand, and, on the other, points in MD, NJ, NY, PA, and IL. Supporting shipper: Federal Distillers, Inc., 15 Monsignor O'Brien Highway, Cambridge, MA 02141.

MC 8973 (Sub-1–7TA), filed December 17, 1980. Applicant: METROPOLITAN TRUCKING, INC., 75 Broad Ave., Fairview, NJ 07022. Representative: Dean N. Wolfe, Esq., Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Chemicals (except in bulk),* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Hercules, Inc. Supporting shippers: Hercules, Inc., 910 Market St., Wilmington, DE 19899.

MC 145624 (Sub-1–1TA), filed December 18, 1980. Applicant: J. V. CARBONE, INC., 33 Marion Avenue, New Providence, NJ 07974. Representative: Michael R. Werner, Esq., 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Hazardous waste materials,* between points in and east of ND, SD, NE, KS, OH and TX. Supporting shippers: A-Line Environmental Services, Inc., P.O. Box 6396, Bridgewater, NJ 08087, and Mid Atlantic Refineries, Inc., 1100 Pennsylvania Avenue, Deptford, NJ 08096.

MC 145108 (Sub-1–14TA), filed December 15, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract Carrier:* irregular routes: *Construction materials,* from Aurora, IL, to Birmingham, AL, Baltimore, MD, Denver, CO, and Mesa, AZ. Supporting shipper: Dur-O-Wall, Inc., 601 North Point Road, Baltimore, MD 21237.

MC 152831 (Sub-1–1TA), filed December 16, 1980. Applicant: K. B. S. LEASING, INC., P.O. Box 244, Lumberton, NJ 08048. Representative: Walter A. Rambo, 72 Lexington Avenue, Mount Holly, NJ 08060 *Hazardous and non-hazardous chemical waste, Blue Plain Sludge,* between points of origin east of the Mississippi River as determined by SCA Chemical Service to their federally approved dump sites located in Model City, NY; Chicago, IL; Memphis, TN; Pinewood, SC; Charlotte, NC; Newark, NJ; and Deptford, NJ. Supporting shipper: SCA Chemical Waste Service, 100 Lister Avenue, Newark, NJ 07100.

MC 134806 (Sub-1–10TA), filed December 16, 1980. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277,

Vernon Drive, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. *Contract carrier:* irregular routes: *(1) dry goods, notions, and holiday decorations, and (2) materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above, except commodities in bulk* from West Warren, MA to Sparks, NV. Supporting shipper: Wm. E. Wright Co., West Warren, MA 01092.

MC 15936 (Sub-1–1TA), filed December 16, 1980. Applicant: SHEANS FREIGHT LINES, INC., 75 Locust St., Medford, MA 02155. Representative: Joseph M. Klements, 84 State Street, Boston, MA 02109. *General commodities (except household goods as defined by the Commission and classes A and B explosives)* between points in CT. Applicant intends to tack to its existing authority and to interline. Supporting shipper(s): There are six statements in support of this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 153174 (Sub-11–TA), filed December 16, 1980. Applicant: AFFILIATED TRANSPORT SERVICES, INC., P.O. Box 158, Folcroft, PA 19032. Representative: Piken & Piken, Esqs., Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374. *Contract carrier:* irregular routes: *Household appliances,* between points in the US, under continuing contract(s) with White-Westinghouse Appliance, Inc. Supporting shipper: White-Westinghouse Appliance, Inc., 16 Cabot Blvd., Langhorne, PA 19047.

MC 126313 (Sub-11–TA), filed December 16, 1980. Applicant: CHO–BO, INC., P.O. Box 38, Route Kennedy, St. Georges (Beauce County), Quebec, CD G5Y 5CO. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *(1) Sulphite and wood pulp,* from ports of entry on the US/CD boundary line located at points in ME, to points in MA, CT, RI, NY, NJ, and PA; *(2) paper,* from ports of entry on the US/CD boundary line located at points in ME, to points in ME, NH, VT, MA, CT, RI, NY, NJ, and PA; and *(3) lumber,* from points in ME, NH, and VT, to ports of entry on the US/CD boundary line located at points in ME. Supporting shippers: Donahue, Inc. and Donahue St. Felicien, Inc., 500 Grande Allee, Est, Quebec, CD G1R 2J7; Beauceville Flooring, Inc., Beauceville, Beauce County, Quebec, CD; and Valco, Inc., St. Georges, Beauce County, Quebec, CD.

MC 123381 (Sub-11–TA), filed December 16, 1980. Applicant: D. J. CRONIN, 909 Wampanoag Trail, East Providence, RI 02914. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. *(1) Petroleum products, in bulk in tank vehicles,* from points in RI to points in CT, MA and RI, and *(2) asphalt and bituminous materials,* (a) from points in NJ and PA to points in CT, MA, ME, NH, NY, RI, and VT, and (b) from points in RI to points in NY. Supporting shipper(s): Armco Inc., P.O. Box 152, Palmer, MA 01069; Fortifiber Corp., 55 Sharkey Avenue, Attleboro, MA 02703; Cronin Asphalt Corp, P.O. Box 4257, East Providence, RI 02914; C. H. Sprague & Son, 375 Alles Ave., Providence, RI; Koppers Co., 850 Koppers Bldg, Pittsburgh, PA 15219.

MC 153169 (Sub-11–TA), filed December 16, 1980. Applicant: BROWNETTE BROS. TRUCKING, INC., 7 Ridge Road, Rumson, NJ 07760. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *(1) Cable and electrical products; and (2) materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between points in the states of CT, DE, FL, GA, LA, ME, MD, MA, MS, NH, NJ, NY, NC, PA, SC, VT, and VA. Supporting shipper(s): Pirelli Cable Corporation, 800 Rahway Ave., Union, NJ 07083.

MC 152753 (Sub-11–TA), filed December 16, 1980. Applicant: ACF FREIGHT HAULERS COMPANY INC., 321 Sherman Ave., P.O. Box 4206, Newark, NJ 07112. Representative: Vincent Cofone, P.O. Box 4206, Newark, NJ 07112. *General commodities, having a prior or subsequent movement by water (except commodities in bulk, and Classes A and B explosives)* between points in the States of CT, FL, IL, DE, GA, IN, KY, MD, NJ, NC, NY, OH, SC, PA, VA, WV. Supporting shipper: Mcgregor Swire Air Services (America) Inc., 111 Kimball Avenue, South San Francisco, CA 94080.

MC 152919 (Sub-1–1 TA), Filed December 16, 1980. Applicant: ROBERT J. EDELMAN, d.b.a. R. & L. Edelman, Rts. 22 & 23, Hillsdale, NY 12529. Representative: Hugh M. Joseloff, P.O. Box 3258, Hartford, CT 06103. *Contract carrier:* Irregular routes: *Plastics, plastic bottles and appendages thereto, corrugated boxes, and equipment, materials, and supplies used in the manufacturer, production and sale of the foregoing items,* between Philmont, NY, on the one hand, and, on the other, all points in the US under continuing contract(s) with Charter Supply Co., Philmont, NY. Supporting shipper: Charter Supply Co., P.O. Box C, Philmont, NY 12565.

MC 153181 (Sub-1–1 TA), Filed December 16, 1980. Applicant: REILLY BROTHERS, INC., 159 Centre Street, Nutley, NJ 07110. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Wearing apparel; and (2) materials, equipment, and supplies used in the manfacturer an sale of wearing apparel,* between Secaucus, NJ, on the one hand, and, on the other, all points in FL, GA, IL, MI, NC, OH, and SC. Supporting shipper(s): The Miller-Wohl Co., Inc., 915 Secaucus Road, Secaucus, NJ 07094.

MC 152947 (Sub-1–1 TA), (Republication), filed December 1, 1980. Applicant: IDEAL TRANSPORTATION CO., INC., 2 Dooling Circle, Peabody, MA 01960. Representative: Mary E. Kelley, Esq., 22 Stearns Avenue, Medford, MA 02155. *General commodities (except classes A & B explosives and household goods as defined by the Commission)* (1) between points in MA, RI, CT, NY and NJ; and (2) between points in MA, RI, CT, NY and NH, on the one hand, and, on the other, points in ME, NH, and VT. Applicant intends to interline in NY and NJ on traffic to points south and west. Supporting shipper(s): Essex Office Associates, Inc., 10 Boston St., Salem, MA 01970; Martignetti Grocery & Liquor Co., 12 Mooney St., Cambridge, MA 02138; U.S. Polmers, Inc., 56 Gardner Parkway, Peabody, MA 01960; A & M Custom Brokers, Inc., 126 State, Boston, MA. Republication is to include NJ omitted from **Federal Register** of December 15, 1980, Page 82371.

The following applications were filed in Region 2. Send protest to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 150432 (Sub-II–9TA), filed December 5, 1980. Applicant: H & M TRANSPORTATION INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street, NW, Suite 1111, Washington, DC 20036. Contract, irregular—*Such merchandise as is dealt in by wholesale, retail and discount stores (except commodities in bulk)* from Columbus, OH to points in TX, OK, AR, CA, UT, NV, and CO, under a continuing contract with Ross Laboratories, Inc., An underlying ETA seeks 120 days authority. Supporting shipper(s): Ross Laboratories, Inc., 625 Cleveland Ave., Columbus, OH.

MC 107006 (Sub-II–5TA), filed December 5, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *General*

*commodities, except commodities in bulk,* between the facilities of Hobart Brothers Co., at or near Troy, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Hobart Brothers Co., 600 W. Main St., Troy, OH 45373.

MC 152874 (Sub-II–1TA), filed November 25, 1980. Applicant: L.G. TRUCK, INC., P.O. Box 359, Lebanon, PA 17042. Representative: David A. Sutherlund, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave., N.W., Washington, D.C. 20036. *Metal products and machinery and machinery parts,* between CT, DE, MD, MA, NJ, NY, OH, PA, VA, WV and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. There are twenty supporting shippers' statements attached to this application which may be examined at the Philadelphia Regional office.

MC 151142 (Sub-II–2TA), filed December 5, 1980. Applicant: H & H TRANSPORTATION, INC., 1425 East Main St., Newark, OH 43055. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Chemicals (except commodities in bulk), and equipment, materials and supplies used in the manufacture and distribution of the above (except commodities in bulk),* between points in and east of MN, IA, MO, AR and LA. Supporting shipper: Maroon Chemical Group, Inc., 14700 Detroit Ave., Lakewood, OH 44107.

MC 151142 (Sub-II–3TA), filed December 5, 1980. Applicant: H & H TRANSPORTATION, INC., 1425 East Main St., Newark, OH 43055. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Containers and container ends and equipment, materials and supplies used in the manufacture and distribution of the above (except commodities in bulk),* between points in and east of MN, IA, MO, AR and LA. Supporting shipper: Maroon Chemical Group, Inc., 14700 Detroit Ave., Lakewood, OH 44107.

MC 38921 (Sub-II–3TA), filed December 10, 1980. Applicant: K.M.A. LEASING, INC., d.b.a. WM. H.P., 1342 N. Howard St., Philadelphia, PA 19122. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. *Malt beverages and supplies used in the production of malt beverages, including the return of empty malt beverage containers, (except commodities in bulk),* between the facilities of C. Schmidt & Sons, Inc., at Cleveland, OH and Philadelphia, PA on the one hand, and, on the other, points in AL, IL, IN, KY, LA, MS, TN, WI, for 180 days. An underlining ETA seeks 90 days authority. Supporting shippers: C. Schmidt & Sons, Inc., 127 Edward St., Philadelphia, PA 19123.

MC 153049 (Sub-II–1TA), filed December 8, 1980. Applicant: JO ANN'S TRUCKING 412 Bardwell Rd., Castalia, OH 44824. Representative Jo Ann Williams (same address as applicant). Contract, irregular—*scrap wiring and refurbished cable sets,* between Norwalk, OH, on the one hand, and, on the other, Pittsburgh, PA; Plymouth and Detroit, MI. Supporting shipper(s): Automatic Equipment Development Corp., 50 Newton St., Norwalk, OH 44857.

MC 125335 (Sub-22TA), filed December 11, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Such merchandise as is dealt in by food business houses and materials, ingredients and supplies, used in their manufacture and distribution,* Between points in the States of OH and SC, on the one hand, and, on the other, points in the States of CT, DE, FL, GA, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC, restricted to traffic originating at or destined to the facilities of Stouffer Foods, Corp., Division of Stouffer Corporation. Supporting shipper: Stouffer Foods Corporation, 5750 Harper Road, Solon, OH 44139.

MC 148265 (Sub-II–1TA), filed December 10, 1980. Applicant: L & F LEASING, INC., 3050 Gale Ave., Hubbard, OH 44425. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Iron and steel articles, and machinery* between points in Mercer County, PA, and points in OH, on and east of Ohio Highway 14, on the one hand and, on the other, points in MI, IN, OH, WV, MD, DE, PA (except McKean, Potter, Elk, Warren, Cameron, forest, Venengo, Clearfiled, and Clinton Counties, PA), NY (except Olean, NY), NJ, CT, RI, MA, VT, NH and ME. *Aluminum extrusions* between points in Mercer County, PA, and points in OH, on and east of Ohio Highway 14, on the one hand, and, on the other, points in MI, IN, OH, WV (except Fairmont, WV), MD, DE, PA, NY (except Oswego, NY), NJ, CT, RI, MA, VT, NH and ME. Supporting shippers: Steel City Corp., 190 North Meridian, Youngstown, OH 44509, Parker Steel Company, 4239 Monroe St., Toledo, OH 43606.

MC 150432 (Sub-II–11TA), filed December 9, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, DC 20036. *Contract*—irregular: *Boiler parts, boiler tubes, and structural steel,* from Erie, PA, to points in AL, AR, AZ, CA, FL, GA, KS, KY, LA, MS, NC, OH, OK, SC, TN, TX, VA and WV, under a continuing contract with Zurn Industries, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Zurn Industries, 1422 East Avenue, Erie, PA 16503.

MC 150432 (Sub-II–11TA), filed December 9, 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. *General commodities (except household goods as defined by the Commission, commodities in bulk, those requiring special equipment, classes A & B explosives, and articles 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 AL, AR, AZ, CA, FL, GA, KS, LA, MS, NC, OH, OK, SC, TN, TX, VA, WV. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 23 supporting shippers' statements attached to this application which may be examined at the Philadelphia Regional office.

MC 65475 (Sub-II–9TA), filed December 15, 1980. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Nonferrous scrap metal,* between points in the U.S. (except AK and HI), restricted to shipments originating at or destined to facilities of Metal Exchange Corp. or its suppliers and its customers for 180 days. An underlying ETA seeks 90 days' authority. Supporting shipper: Metal Exchange Corp., 111 West Port Plaza, Suite 704, St. Louis, MO 63141.

MC 123387 (Sub-II–3TA), filed December 15, 1980. Applicant: E. E. HENRY, INC., 1128 S. Military Hwy., Chesapeake, VA 23320. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Dinnerware, Crystal, Glassware, and Cookware,* from points in NY, NJ, PA, MD, WV, OH, VA, and TX to Royal Oaks, MI. An underlying ETA seeks 120 days authority. Supporting shipper: Wells Freight & Cargo Co., 126 East Hudson St., Royal Oak, MI 48067.

MC 115391 (Sub-II–1TA), filed December 15, 1980. Applicant: GENSIMORE TRUCKING, INC., P.O. Box L, Pleasant Gap, Centre County, PA

16823. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. *Contract,* irregular—*Chemicals or allied products* as described in item 28 of the Standard Transportation Commodity Code between points in the US under a continuing contract with Foote Mineral Company, Exton, PA for 270 days. Supporting shipper: Foote Mineral Co., Route 100, Exton, PA 19341.

MC 150939 (Sub-II–10TA), filed December 11, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Steel office furniture and materials used or useful in the manufacture, sale or distribution of steel office furniture,* between New Kensington and Verona, PA, on the one hand, and, on the other, points in the U.S. for 270 days under a continuing contract(s) with Haskell of Pittsburgh, Inc. of Verona, PA. An underlying ETA seeks authority for 120 days. Supporting shipper: Haskell of Pittsburgh, Inc., 231 Haskell Lane, Verona, PA 15147.

MC 94265 (Sub-II–26TA), filed December 15, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305—Rte. 460 W., Windsor, VA 23487. Representative: Clyde W. Carber, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs* (except in bulk) *and materials, equipment and supplies used in the manufacture of foodstuffs,* from points in MI to points in AL, AR, DC, DE, FL, GA, KS, KY, LA, MD, IL, IN, IA, MO, MS, OH, OK, NC, PA, SC, TN, TX, VA, WI, and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707.

MC 153164 (Sub-II–1TA), filed December 15, 1980. Applicant: CONCARCO, INC., 698 Fairmount Ave., Baltimore, MD 21204. Representative: Robert C. Schuhmann, 698 Fairmount Ave., Baltimore, MD 21204. *Contract* irregular, *Automobile Parts and Accessories* between Baltimore, MD on the one hand, and, on the other, pts. in the continental US for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: R.P.S. Products, Inc., 1700 S. Caton Ave., Baltimore, MD.

MC 119631 (Sub-II–2TA), filed December 15, 1980. Applicant: DEIOMA TRUCKING CO., Chestnut St., P.O. Box 335, East Sparta, OH 44626. Representative: Richard C. Deioma (same as applicant). *Lift trucks,* between Baltimore, MD and pts. in OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Williams Super Service, 9462 Main St., East Sparta, OH 44626.

MC 152239 (Sub-II–3TA), filed December 15, 1980. Applicant: C–B BROKERS, INC., P.O. Box 10, Hanover, VA 23069. Representative: J. D. Brown (same as applicant). *Paper, paper products, pulp board, wood pulp, particle board, equipment, materials and supplies used in the manufacture of same,* between pts. in VA and pts. in the US for 270 days. Supporting shipper: Chesapeake Corp. of VA, West Point, VA.

MC 153198 (Sub-II–1TA), filed December 15, 1980. Applicant: CORN ENTERPRISES, INC., 1 Mackie Court, Harrison, OH 45030. Representative: Rex A. Corn (same as applicant). *Contract,* irregular: *General commodities (except Class A & B explosives, Household Goods as defined by the Commission, commodities in bulk or commodities in tank vehicles),* between pts. in the US under continuing contract with Dorcy Ashflash Inc. and Central Ohio Shippers Coordinated Corp., Columbus, OH, for 270 days. Supporting shippers: Central OH Shippers Coordinated Corp., Columbus, OH, Dorcy Ashflash, Inc., Columbus, OH.

MC 151459 (Sub-II–1TA), filed December 15, 1980. Applicant: WILLARD VAUGHN, Rt. No. 1, Box 84, Fries, Virginia 24330. Representative: Wayne M. Harrell, P.O. Box 1124, Mt. Airy, N.C. 27030. *Contract carrier:* irregular: *Portable utility buildings,* from Mt. Airy, N.C. to various sales lots in the following states: North Carolina, South Carolina, Virginia, Georgia, Kentucky, Tennessee, West Virginia, for 270 days. Supporting shipper: Leonard Aluminum Utility Buildings, Inc., P.O. Box 1124, Mt. Airy, N.C. 27030.

MC 108452 (Sub-II–2TA), filed December 12, 1980. Applicant: ATWOOD'S TRANSPORT LINES, INC., 5500 Tuxedo Rd., Tuxedo, MD 20781. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Passengers and their baggage, in the same vehicle as passengers, in charter operations,* beginning and ending at points in the Baltimore, MD commercial zone and extending to points in CT, ME, MA, NH, NJ, NY, PA, VT, VA, and WV, restricted to transportation arranged by licensed passenger brokers, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Eastern Ski Tours, Inc., 1E. Redwood Street, Baltimore, MD 21202.

MC 2368 (Sub-II–9TA), filed December 15, 1980. Applicant: BRALLEY–WILLETT TANK LINES, INC., P.O. Box 495, Richmond, VA 23204. Representative: William T. Marshburn (same address as applicant). *Hazardous Waste in bulk, in tank vehicles,* from points in NC and VA to points in the United States (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Browning Ferris Ind., P.O. Box 970, Chester, VA 23831. Allied Chemical Corp., P.O. Box 761, Hopewell, VA 23860.

MC 138395 (Sub-II–2TA), filed December 12, 1980. Applicant: DOUGLAS H. WEST, P.O. Box 1274, Salisbury, MD 21801. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. (1) *Treated and untreated forest products;* (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of (1) above, between points in FL, GA, SC, NC, VA, MD, PA, NJ, NY, DE, CT, RI, MA, NH, and ME. Restricted to traffic originating at or destined to the facilities of or utilized by Atlantic Wood Industries, for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Atlantic Wood Industries, P.O. Box 358, Fords, NJ 08863.

MC 119632 (Sub-II–18TA), filed December 11, 1980. Applicant: REED LINES, INC., 634 Ralston Ave., Definance, OH 43512. Representative: Wayne C. Pence (same address as applicant). *(1) Such commodities as are dealt in by food business houses (except frozen or in bulk) and (2) materials, equipment and supplies used in the manufacture, sales and distribution of commodities in (1) above (except in bulk),* between Chicago, IL Commercial Zone and points in the U.S. in and east of MN, IA, MO, AR, and LA for 270 days. Supporting shipper(s): Fearn International, Inc., 9353 Belmont Ave., Franklin Park, IL. Mullins Food Products, 2759 S. 25th Ave., Broadview, IL.

MC 150567 (Sub-II–T–9), filed December 15, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. *Contract; irregular: (1) Items distributed in retail grocery, drug and department stores and (2) materials and supplies incidental to the manufacture and distribution thereof,* between Chicago, IL and St. Louis, MO on the one hand, and, on the other, points in AR, CO, GA, LA, MI, MN, OK, PA, and TX for 270 days. An underlying ETA seeks 120 days authority. Applicant intends to interline to points in TX within scope of operations of Alamo Express, Inc. Supporting shipper: Purex Corp., 6901 McKissock Ave., St. Louis, MO 63147.

MC 119632 (Sub-II-T-19), filed December 15, 1980. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence (same address as applicant). (1) *Such items as are dealt in by construction and home improvement centers (except in bulk and articles requiring the use of special equipment)* and (2) *materials, equipment and supplies used in the manufacture and distribution of (1) above*, between the facilities used by Thermo-Tru Div. of LST Corp., and points in the U.S. in and east of MN, IA, MO, AR, and LA for 270 days. Supporting shipper: LST Corporation, 2806 N. Reynolds Rd., Toledo, OH.

MC 61825 (Sub-II-T-12), filed December 15, 1980. Applicant: ROY STONE TRANSFER CORP., V. C. DR, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). *Iron and steel articles and plastic articles*, from Columbus, OH to Birmingham, AL; Hialeah (Miami), Jacksonville, Orlando and Tampa, FL; Albany and Atlanta, GA; Louisville, KY; Lawrence, MA; Minneapolis, MN; St. Louis and Springfield, MO; Charlotte and Greensboro, NC; Tulsa, OK; Charleston, Columbia and Greenville, SC; Knoxville, Memphis and Nashville, TN; Dallas and Houston, TX; Norfolk, Richmond and Roanoke, VA and Barboursville, WV, restricted to the facilitites of Samuel Strapping Systems, Inc. at Columbus, OH for 270 days. Supporting shipper: Samuel Strapping Systems, Inc., 3900 Groves Rd., Columbus, OH 43227.

MC 151458 (Sub-II-T-1), filed December 15, 1980. Applicant: TED SNOW, Rt. No. 1, Fancy Gap, VA 24038. Representative: Wayne M. Harrell, P.O. Box 1124, Mt. Airy, NC 27030. *Contract;* irregular: *Portable utility buildings* from Mt. Airy, NC to various sales lots in the following states NC, SC, VA, GA, KY, TN, and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Leonard Aluminum Utility Buildings, Inc., P.O. Box 1124, Mt. Airy, NC 27030.

MC 153141 (Sub-II-T-1), filed December 12, 1980. Applicant: RALPH W. SOUTHERS, d.b.a. SOUTHERS WRECKING & REPAIR, P.O. Box 988, Staunton, VA 24401. Representative: Harry J. Jordan, Macdonald & McInerny, Suite 502, Solar Bldg., 1000 16th St., NW, Washington, DC 20036. *Contract:* irregular: *Motor vehicles* between points in the U.S. under continuing contracts with Smith's Transfer Corp, Erb Transportation Co., Inc., Mortons Frozen Foods, Div. of ITT Continental Baking Co., and Mack Trucks, Inc. for 270 days. Supporting shipper(s): Smith's Transfer Corp., Box 1000, Staunton, VA 24401. Erb Transportation Co., Inc., P.O. Box 65, Crozet, VA 22932. Mortons Frozen Foods, Div. of ITT Continental Baking Co., P.O. Box 97, Crozet, VA 22932. Mack Trucks, Inc., Box M, 2100 Mack Blvd., Allentown, PA 18105.

MC 151703 (Sub-II-T-1), filed December 15, 1980. Applicant: NORSUB, INC., R.D. No. 1, Box 317, Evans City, PA 16033. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Contract:* irregular: *Iron and steel and iron and steel articles, and materials, equipment, and supplies used or useful in the manufacture and distribution of iron and steel and iron and steel articles*, between the facilities of Jones & Laughlin Steel Corporation located in Aliquippa and Pittsburgh, PA and Youngstown, OH on the one hand, and, on the other, points in AR, CA, CO, IL, IN, IA, MN, OK, TX, UT, WA, and WY for 270 days under a continuing contract with Jones & Laughlin Steel Corp., Pittsburgh, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Jones & Laughlin Steel Corp., Room 121—1600 W. Carson St., Pittsburgh, PA 15236.

MC 149412 (Sub-II-T-1TA), filed December 15, 1980. Applicant: MILK TANK LINES, INC., P.O. Box 788, Frazer, PA 19355. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Sugar, syrups, fructose, molasses, blends of sugar, syrups, fructose and molasses, and citrus juices*, in bulk, between points in and east of MN, IA, KS, OK, and TX, for 270 days. Supporting shipper: Six certifications of support are attached to the application.

MC 107012 (Sub-II-T-118), filed December 15, 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 as applicant). *General commodities*, from Seattle, WA to points in and east of MN, SD, NE, CO, OK and TX (except FL, ME, MA, NH and VT) for 270 days. Supporting shipper: Bostrum Warren, Inc., 24 S. Idaho Street, P.O. Box 68617, Seattle, WA 98168.

**Note.**—Common control may be involved.

MC 152840 (Sub-II-T-1TA), filed December 16, 1980. Applicant: PATRICIA and JAMES KEELER d.b.a., P & J TRANSPORTATION CO., Route 295, Berkey, OH 43504. Representative: Donald G. Hichman, R.D. No. 1, Box 7, Union Springs, NY 13160. *(a) Foodstuffs and (b) materials used in the manufacture, distribution and processing of foodstuffs* (except commodities in bulk) between Archbold and Napoleon, OH, on one hand, and, on the other, points in CT, DC, DE, IL, IN, MD, MI, NJ, NY, PA, VA and WV for 270 days. Supporting shipper(s): La Choy Food Products, 901 Stryker St., Archbold, OH 43502. Campbell Soup Co., E. Maumee St., Napoleon, OH 43545.

MC 153172 (Sub-II-T-1), filed December 16, 1980. Applicant: M & M TRANSFER CO., Box 176, Clintwood, VA 24228. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Household Goods, as defined by the Commission*, between points in Buchanan, Dickenson, Lee, Russell, and Wise Counties, VA, on the one hand, and, on the other, points in AL, GA, DE, FL, KY, IL, IN, MD, MI, NC, NJ, OH, PA, SC, TN, WV, and DC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are six supporting shipper statements which may be examined at the Phila. Regional Office.

MC 107012 (Sub-II-T-119), filed December 16, 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 as applicant). *Medical disposable clothing and surgical sponges*, from North Hollywood, CA to points in AZ, CO, CT, FL, IL, MI, MN, MO, NC, OH, OR, TN, TX, VA and WV for 270 days. An underlying ETA is seeking authority for 120 days. Supporting shipper: Surgilite International, Inc., 7005 Tujunga Ave., North Hollywood, CA 91605.

**Note.**—Common control may be involved.

MC 140889 (Sub-II-T-9), filed December 15, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114. *Contract;* irregular: *Foodstuffs, bakery products, and materials, supplies and equipment used in the manufacturer of above* between shipper's plantsite in Summit County (Twinsburg), OH to points in CA and Maricopa County, AZ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: BROWNBERRY OVENS, INC., P.V. Div., 1 Meadow Rd., Oconomowoc, WI 53066.

MC 139083 (Sub-II-1TA), filed December 15, 1980. Applicant: BUILDING SYSTEMS TRANSPORTATION, INC., P.O. Box 142, Washington, Courthouse, OH 43160. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006. *Iron and steel*

*articles, and materials, equipment and supplies used in the manfacture, distribution, and sale of iron and steel articles,* between points in Jessamine County, KY, on the one hand, and, on the other, points in the U.S., for 270 days. Supporting shipper: Armco, Inc., 703 Curtis St., Middletown, OH 45043.

MC 146807 (Sub-II–12TA), filed December 18, 1980. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Paul Seleski (same as applicant). *Plastic pellets, scrap plastic, PCU rubber, bags, doors or boxes of rubber, beads or flakes,* from Houston, TX and Borger, TX, Baton Rouge, LA & Parkersburg, WV to points in NJ and OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Koenig Plastics Co., P.O. Box 1810, Trenton, NJ 08607.

MC 107654 (Sub-II–5TA), filed December 19, 1980. Applicant: SPECIAL SERVICE TRANSPORTATION, INC., 1100 W. Smith, Medina, OH 44256. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Contract carrier,* Irregular route: (1) *Sand, except in bulk,* from Aurora, IL and its commercial zone, to points in OH, PA, and WV, (2) *Materials and supplies used in the production and distribution of foundry cores and molds (except commodities in bulk),* from points in IL, IA, and MI to Wadsworth, OH and its commercial zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Shell's, Inc., 350 State St., Wadsworth, OH 44281.

MC 153270 (Sub-II–1TA), filed December 19, 1980. Applicant: THE SORG PAPER COMPANY, 901 Manchester Ave., Middletown, OH 45042. Representative: William D. Smith, (same as applicant). *Contract* Irregular: *Waste paper,* from Chicago IL to Middletown, OH for 270 days. Supporting shipper(s): Middletown Paperboard Co., 427 Vanderveer St., Middletown, OH 45042.

MC 134029 (Sub-II–1TA), filed December 19, 1980. Applicant: SIGEL'S HAULING, INCORPORATED, P.O. Box 286, Cadiz, OH 43907. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Quarry equipment* between points in Boyd, Carter and Greenup Counties, KY, Adams, Ashtabula, Columbiana, Cuyahoga, Jackson, Jefferson, Lawrence, Mahoning, Medina, Ottawa, Pike, Portage, Scioto, Stark, Summit, Trumbull Counties, OH, Allegheny, Beaver and Cambria Counties, PA and Hancock County, WV, on the one hand, and, on the other, Erie County, NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Standard Slag Company, 1200 Stambaugh Building, Youngstown, OH 44501.

MC 40326 (Sub-II–1TA), filed December 18, 1980. Applicant: CINTI TRUCKING, INC., 2174 Seymour Ave., Cincinnati, OH 45212. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of cleaning compounds, chelates, chemicals, drugs, medicines, toilet preparations, deodorants, disinfectants, herbicides, insecticides, plastics, rosins, paints, photographic paper and film,* except in bulk, between the facilities of Ciba-Geigy at or near Cincinnati, OH, on the one hand, and, on the other, points in IN, IL, KY, OH, MI, PA, TN, WV and VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): CIBA-GEIGY CORP., 444 Saw Mill River Rd., Ardsley, NY 10502.

MC 121420 (Sub-II–5TA), filed December 18, 1980. Applicant: DART TRUCKING CO., INC., 61 Railroad St., Canfield, OH 44406. Representative: David J. Best, 61 Railroad St., Canfield, OH 44406. *Coal,* in bulk, from Rockcastle Cty. Ky. to Montgomery Cty. OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Johnson Energy, Third National Bldg., 32 N. Main St., Suite 609, Dayton, OH 45402.

MC 117565 (Sub-II–10TA), filed December 18, 1980. Applicant: MOTOR SERVICE COMPANY INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same as applicant). *(1) Plumbingware, Fixtures, Plastic Products, Accessories and Supplies and (2) Accessories and Supplies used in the manufacture, distribution, installation, and maintenance of (1) above,* Between Tupelo, MS, Newburg, NY, and Wilson, NC, on the one hand, and on the other, points in the United States, for 270 days. Supporting shipper: Eljer Plumbingware, Division, Wallace Murray Corp., Three Gateway Center, Pittsburg, PA 15222.

MC 107403 (Sub-II–39TA), filed December 18, 1980. Applicant: MATLACK, INC., 10W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Cutting Fluids, in bulk, in tank vehicles,* between Huntsville, TX, on the one hand, and, on the other, points in the states of GA, FL, AL, MS, TN, LA, AR, OK, KS, NM, CO, WY, MT, WA, OR, ID, CA, NV, UT, and AZ for 270 days. Supporting shipper: Master Chemical Corporation, 501 West Boundary, Perrysburg, OH 43551.

MC 107012 (Sub-II–121TA), filed December 17, 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 as applicant). (1) *Conduits and ducts* and (2) *parts and accessories for the commodities named in (1) above,* from the facilities of GI Industries, Inc. at or near Los Angeles, CA to all points in the United States for 270 days. Supporting shipper: GI Industries, Inc., 2045 S. State College Blvd., Anaheim, CA 90806.

**Note.**—Common control maybe involved.

MC 149412 (Sub-II–2TA), filed December 15, 1980. Applicant: MILK TANK LINES, INC., P.O. Box 788, Frazer, PA 19355. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Vegetable oils, vegetable oil products, and foodstuffs,* in bulk, between Columbus, OH, West New York, NJ, Bayonne, NJ, and Kearny, NJ, on the one hand, and, on the other, points in CO, and those in and east of MN, IA, MO, AR, and TX, for 270 days. Supporting shipper: Capitol City Products Co., Div. of Stokely-Van Camp, Inc., P.O. Box 569, Columbus, OH 43216.

MC 151707 (Sub-II–6TA), filed December 17, 1980. Applicant: PIONEER TRUCKING, INC., 1105 N. Market Street, 15th Floor, Wilmington, DE 19801. Representative: Dennis Kupchi (same as applicant). *Coal in bulk* between PA, on the one hand, and on the other, points in DE, MD, NJ, NY, and PA, under contract/contracts with DeNaples Sanitary Land Fill, for 270 days. Supporting shipper: DeNaples Sanitary Land Fill, 118 Bush St., Dunmore, PA 18510.

MC 112595 (Sub-II–2TA), filed December 15, 1980. Applicant: FORD BROTHERS, INC., Box 727, Ironton, OH 45638. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Transporting liquid petroleum pitch,* from Lima, OH, to Evanston, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Standard Oil of Ohio, 1507 Rockefeller Building, 614 Superior Ave., Cleveland, OH 44113.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 153081 (Sub-3–1TA), filed December 17, 1980. Applicant: RAY MILLER, d.b.a. DIXIE AUTO TRANSIT, Rt. 1, Willingham Dr., Box 335, Kathleen, GA 31047. Representative: Ray Miller (same address as applicant). *New and Used Cars* between points in GA, AL,

FL, MS, LA, TN, SC, NC, VA, MD, PA, KY, WY, NJ. Supporting shipper: Shealy Motor Co., 102 N. Davis Dr., Warner Robins, GA 31093, Robins Toyota Inc., 616 N. Davis Dr., Warner Robins, GA 31093, Jim's Used Cars, 207 Watson Blvd., Warner Robins, GA 31093.

MC 18535, (Sub-3–1TA), filed December 17, 1980. Applicant: HICKLIN MOTOR LINE, INC., P.O. Box 377, St. Matthews, SC 29135. Representative: Robert H. Hicklin (same as above). *General Commodities (except those of unusual value, Class A and B explosives and household goods as defined by the commission),* between Jacksonville, FL, Savannah, GA, Wilmington, NC, Charleston, SC, and Norfolk, VA, on the one hand, and, on the other, points and places in FL, GA, NC, SC, TN, and VA. Supporting shippers: International Tire Marketers, Inc., P.O. Box 1386, Myrtle Beach, SC 29577, and A. P. Moller-Maersk Line, P.O. Box 1001, Charleston, SC 29402.

MC 146623 (Sub-3–1TA), filed December 12, 1980. Applicant: STAMEY ENTERPRISES, INC., 7350 102d Place, South Boynton Beach, FL 33435. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW 53d St., Miami, FL 33166. (A) *Foodstuffs* and (B) *merchandise, equipment, materials and supplies sold in or used in the maintenance and operation of chain supermarkets (except articles in bulk)* (1) between points in CT, DE, GA, IL, MD, MA, NJ, NY, NC, PA, SC and VA on the one hand, and, on the other, points in FL and (2) between points in FL. Supporting shipper is Pantry Pride Supermarkets, a division of Food Fair, Inc., 7000 NW 32d Ave., Miami, FL 33147.

MC 147494 (Sub-3–1TA), filed December 17, 1980. Applicant: BOBBY KITCHENS, INC., P.O. Box 6161, Jackson, MS 39208. Representative: Mr. Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Non-exempt food or kindred products* from Power County, ID; Umatilla County, OR; Benton, Franklin, Grant, and Walla Walla Counties, WA to AL, AR, FL, GA, LA, MS, TN and TX. Supporting shipper: Lamb-Weston, 6600 S.W. Hampton St., Portland, OR 97223.

MC 152593 (Sub-3–1TA), filed December 17, 1980. Applicant: MARTY'S AUTO SERVICE, 314 S.E. 10th St., Miami, FL 33004. Representative: Richard B. Austin, 320 Rochester Building, 8390 N.W. 53rd St., Miami, FL 33166. *Used motor vehicles, in truckaway or car carrier,* between points in AL, CT, DE, DC, FL, GA, MD, MA, NJ, NY, NC, PA, RI, SC and VA. Supporting shipper: There are ten statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 153216 (Sub-3–1TA), filed December 17, 1980. Applicant: CAROLINA WASTE SYSTEMS, INC., P.O. Box 832, Hwy. No. 74 East Hamlet, NC 28345. Representative: Jerry E. Whitley (same address as applicant). *Contract* carrier: irregular: *Hazardous Waste Materials, in bulk* between points in Union County, NC, and Sumter County, SC. Supporting shipper: Teledyne All Vac, P.O. Box 759, Monroe, NC.

MC 153211 (Sub-3–1TA), filed December 18, 1980. Applicant: DUSTY BULLOCK, INC., Route 1, Box 207, Caryville, TN 37714. Representative: Peter A. Greene, Thompson, Hine and Flory, 1920 N Street, N.W., Suite 700, Washington, DC 20036. *Meats, meat products, and meat byproducts* between points in Campbell County, TN, on the one hand, and, on the other, points in OH and IN. Supporting shipper: Powell Valley Foods, Inc., Elkins Road, P.O. Box 55, Caryville, TN.

MC 110878, (Sub-3–8TA), filed December 17, 1980. Applicant: ARGO TRUCKING COMPANY, INC., P.O. Box 955, Elberton, GA 30635. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Granite,* from Elberton, GA to Harrison, NJ. Supporting shipper: Coggins Granite Inc., d.b.a. The Georgia Granite Company, P.O. Box 250, Elberton, GA 30635.

MC 106644 (Sub-3–7TA), filed December 18, 1980. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same as applicant). *Wood products* from Cottonwood, CA and points on the international boundary at or near Douglas, AZ to points in the U.S. in and east of TX, OK, MO, NE, IA and WI. Supporting shipper: Rocklin Forest Products, Inc., P.O. Box 400, Roseville, CA 95678.

MC 75840 (Sub-3–27TA), filed December 16, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are distributed or utilized by a manufacturer of paint and paint products (except in bulk),* between the facilities of Dutch Boy, Consumer Division of Sherwin-Williams Co., at or near Baltimore, MD, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, KY, LA, MD, MA, MS, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, and DC. Supporting shipper: Dutch Boy, Consumer Division of Sherwin-Williams Co., 2325 Hollins Ferry Road, Baltimore, MD 21230.

MC 128117 (Sub-3–6TA), filed December 17, 1980. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *(a) New furniture and furniture parts and (b) furniture parts, supplies, packaging and items used in the manufacture and transportation of new furniture and furniture parts* (a) from Arcadia, LA to points in the states of AL, AZ, AR, CA, CO, FL, GA, KY, KS, MS, MO, NE, NV, NM, NC, OK, SC, TN, TX, VA, and UT, and (b) from points in Caldwell, Rutherford, Alexander, and Catawba Counties, NC, and from points in Washington County, VA and Lynchburg, VA (an independent city) to Arcadia, LA. Supporting shipper: Broyhill Industries, Broyhill Park, Lenoir, NC 28633.

MC 153214 (Sub-3–1TA), filed December 17, 1980. Applicant: WILLIAMSON DISTRIBUTORS, INC., Corner Thorne & Ralston Streets, P.O. Box 3489, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N Street, N.W., Washington, D.C. 20036. *Iron, steel, and aluminum articles* between Roseboro, NC, on the one hand, and on the other, points in the United States in and east of LA, AR, MO, IA, MN and the ports of entry on the International Boundary Line between the United States and Canada at Buffalo and Champlain, NY. Supporting shipper: Dubose Steel Inc., P.O. Box 1098, Roseboro, NC 28382.

MC 153212 (Sub-3–1TA), filed December 17, 1980. Applicant: JANE WINGER d.b.a. SUN STATE TRUCKING, Highway 27 South, Haines City, FL 33844. Representative: James E. Wharton, Suite 811, Metcalf Building, 100 South Orange Avenue, Orlando, FL 32801. *Food or kindred products as defined in Item #20 of the Standard Transportation Commodity Code and items used in the manufacture, processing, and distribution thereof* between points in US excluding AK & HI under a continuing contract with Orchard-Hill Farms, Inc. Supporting shipper: Orchard Hill Farms, Inc., 68 S. Broadway Road, Red Hook, NY 12571.

MC 148410 (Sub-3–4TA), filed December 17, 1980. Applicant: BRAVO TRANSPORT, INC., 6440 Hillandale Road, Suite 263, Lithonia, GA 30058. Representative: Charles E. Puckett (same address as applicant). *Commodities of, Rail Anchors, Anti-Creepers, Stays, Socket Terminals, Rail Bonds, Rail Clips, Rail Filler Blocks,*

*Railway Car Parts, including Railway Car Castings, Forgings, or Stampings. Railway Switch Machines, Rail Road Wheels, Axel Parts, Equipment and Supplies used in the manufacture repair and sales of Railroad Equipment. Cranes or Derricks, Locomotive traveling, Floor Type, Self Propelled or not self propelled. Dragline Excavators or Power Shovels, mounted or not mounted and parts. Equipment and supplies used in the manufacture sales and distribution of Cranes and Derricks and Railroad Equipment,* between Pittsburgh, PA, Milwaukee, WI, New Orleans, LA, Houston, TX, Chicago, IL, Birmingham, AL, St. Louis, MO, Chattanooga, TN, Atlanta, GA, on the one hand, and, on the other, all points in AL, GA, FL, MS, LA, TX, TN, MO, AR, IL, IN, OH, WI, OK, MI, PA, KY. Supporting Shipper, Church-Dailing Co., Inc., 1401 South Rendon St., New Orleans, LA 70125.

MC 153228 (Sub-3–1TA), filed December 17, 1980. Applicant: Z TRUCKING & FORWARDERS, INC., 5440 West 5th Street, Jacksonville, FL 32205. Representative: O.C. Beakes, 836 Riverside Ave., Jacksonville, FL 32204. *General commodities (except household goods, articles of unusual value in courier service, explosives, articles in bulk in tank trucks and articles which because of their size, weight or bulk require the use of specialized equipment),* between all points in FL east of the area delineated by Interstate Highway 75 from the GA-FL line to its intersection with FL Highway 52 and between all points south of FL Highway 52 from its intersection with Interstate Highway 75 to the Gulf of Mexico; and between Jacksonville, FL and points in GA within a radius of 160 miles of Jacksonville, FL.Supporting shippers: There are 12 statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant intends to interline with other carriers at Tampa and Orlando, FL.

MC 153214 (Sub-3–2TA), filed December 17, 1980. Applicant: WILLIAMSON DISTRIBUTORS, INC., Corner Thorne & Ralston Streets, P.O. Box 3489, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N Street, N.W., Washington, D.C. 20036. (1) *Paper, paper products and wood pulp;* (2) *Lumber and wood products;* and (3) *Equipment, materials and supplies used in the manufacture and distribution of the commodities named in (1) and (2) above,* between Plymouth, NC, on the one hand, and, on the other, points in the United States in and east of LA, AR, MO, IA, MN, and the ports of entry on the International Boundary Line between the United States and Canada at Buffalo and Champlain, NY. Supporting shippers: Plymouth Wood Treating Co., Inc., P.O. Box 1005, Plymouth, NC 27962; and Timber Products of Askewville, P.O. Box 1005, Plymouth, NC 27962.

MC 143276 (Sub-3–6TA), filed December 16, 1980. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, GA 30080. Representative: Jack Weaver (same address as applicant). *Veneer, plywood, lumber and lumber products,* Between all points in GA, on the one hand, and on the other, points in AL, FL, KY, MS, NC, SC and TN. Supporting shipper: Pharris Lumber Company, P.O. Box 90848, East Point, GA 30364.

MC 153217 (Sub-3–1TA), filed December 16, 1980. Applicant: JACK THOMAS d.b.a. JACK THOMAS TRUCKING, P.O. Box 337, Tellico Plains, TN 37385. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *(1) Paper, paper products and woodpulp (except in bulk), and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities above (except in bulk),* between the facilities of Bowater Southern Paper Corporation, at or near Calhoun, TN, on the one hand, and, on the other, points in the states of AR, AZ, CA, IA, KS, MO, NE, NM, OK and TX. Supporting shipper: Bowater Southern Paper Corporation, Calhoun, TN 37309.

MC 147942 (Sub-3–3TA), filed December 17, 1980. Applicant: M & L TRUCK LINE INC., P.O. Box 358, Memphis, TN 38101. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Ave., Memphis, TN 38103. (1) *Grain, flour, seasoning compounds, or spices, dry or liquid sweeteners, and food curing or flavoring ingredients* from Claymont, DE; Smyrna, GA; Lawrence, KS; St. Louis, MO; Springfield, MO; and Kansas City, MO; to the facilities of Flavorite Laboratories, Inc. at Horn Lake, MS; (2) *Fibreboard drums* from Chicago, IL, St. Louis, MO, and Van Wert, OH, to the facilities of Flavorite Laboratories, Inc. at Horn Lake, MS. Supporting shipper: Flavorite Laboratories, Inc., Horn Lake, MS.

MC 146646 (Sub-3–37TA), filed December 16, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355–A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* from Chicago, IL, New York, NY, and Philadelphia, PA and points in their Commercial Zones, to points in CA, WA, OR, AZ, CO, IL, FL, GA, MN, MO, TX, UT, DE, AL, MA, NJ, NY, PA, and RI. Supporting shipper: West Coast Shippers Association, 2000 South 71st Street, Philadelphia, PA 19142.

MC 75840 (Sub-3–26TA), filed December 17, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of paper and paper products (except in bulk),* between the facilities of James River Corporation located at or near Fitchburg, Adams, East Pepperell, and Holyoke, MA; Milford, Warren Glen, Regalsville, and Hughesville, NJ; Newark, DE; and Richmond, VA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, OH, PA, NY, NJ, RI, CT, MA, DC, DE, MD, WV. Supporting shipper: James River Corporation, P.O. Box 2218, Richmond, VA 2317.

MC 134064 (Sub-3–11TA), filed December 17, 1980. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainsville, GA 30505. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *(1) Foodstuffs (except in bulk) and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities in item (1) above, (except in bulk),* between Gainesville, GA and points in its commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Dutch Quality House, Inc., P.O. Box 2397, Gainesville, GA 30503.

MC 75840 (Sub-3–25TA), filed December 17, 1980. Applicant: MALONE FREIGHT OFFICE BOX 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or used by a manufacturer or distributor of medicine, drugs, toilet preparations, health care items and pharmaceutical chemicals (except in bulk),* between the facilities of or utilized by William H. Rorer, Inc., at or near Ft. Washington and Philadelphia, PA; Lewes, DE; Hammond, IN; and Tucker, GA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, IN, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper:

William H. Rorer, Inc., 500 Virginia Drive, Ft. Washington, PA 19034.

MC 120910 (Sub-3–8TA), filed December 17, 1980. Applicant: SERVICE EXPRESS, INC., Post Office Box 1009, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., Esq., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Roofing paper, building paper, roofing cement, asphaltum, roofing asphalt, prepared roofing, prepared shingles, filter felt, and materials and supplies used in the installation thereof (except liquid in bulk, in tank vehicles)* between Tuscaloosa County, AL, on the one hand, and, on the other, all points in the United States in and east of ND, SD, NE, OK, and TX; (2) *materials and supplies used in the manufacture of items in (1) above (except liquid in bulk, in tank vehicles)* between all points in the United States in and east of ND, SD, NE, OK and TX to Tuscaloosa County, AL. Supporting shippers: Elk Corporation of Alabama, Old Sanders Ferry Road, P.O. Drawer 2450 Tuscaloosa, AL, Tamko Asphalt Products, Inc., 220 West 4th Street, Joplin, MO 64801.

MC 147484 (Sub-3–1TA), filed December 17, 1980. Applicant: MYERS TRANSFER, INC., P.O. Box 11033, 1241 Haines Street, Jacksonville, FL 32211. Representative: Donald L. Myers, P.O. Box 11033, Jacksonville, FL 32211. *General Commodities in containers and/or trailers and Empty containers, trailers, and/or chassis (Except Class A & B explosives). Restricted to traffic having prior or subsequent movement by water.* Between Charleston, SC on the one hand and on the other hand all points in the States of AL, NC, SC, and TN, with rights to tack. There are eight supporting shippers and their statements may be examined at the Regional Office in Atlanta, GA.

MC 103051 (Sub-3–7–TA), filed December 17, 1980. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave. North, P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant). *Hazardous, non-hazardous and recyclable waste, in bulk,* between points in U.S. Supporting shipper: Systech Liquid Treatment, Corp., 1640 Antioch Pike, Nashville, TN 37013 and Resource recycling Tech. Inc. 2003 Gallatin Road, Madison, TN 37115.

MC 75840 (Sub-3–36TA), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Scrap aluminum,* between points in AL, AR, CT, DE, FL, GA, KY, LA, MD, MA, MS, NY, NJ, NC, OH, PA, RI, SC, TN, TX, VA, WV, and DC. Supporting shipper: Stanley Metal Corporation, 575 Lexington Avenue, New York, NY 10022.

MC 75840 (Sub-3–33TA), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of railroad car wheels, steel rings, and iron and steel articles (except in bulk),* between the facilities of Edgewater Steel Company located at or near York, SC, and Oakmont, PA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: Edgewater Steel Company, College & Allegeheny Avenues, Oakmont, PA 15139.

MC 129702 (Sub-3–1TA), filed December 23, 1980. Applicant: CARPET TRANSPORT, INC., Route 5, Lovers Lane Road, Calhoun, GA 30701. Representatives: Archie B. Culbreth and John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Carpet, carpet padding and other floor covering;* and (2) *materials, equipment and supplies used in the manufacture and distribution of carpet, carpet padding and other floor covering,* between points in AL, FL, GA, MS, NC, SC, TN and VA. Supporting shippers: There are 7 supporting shipper certifications to this application, which may be reviewed at the Regional Complaint/Authority Center, Interstate Commerce Commission, 1776 Peachtree Street, Atlanta, GA 30309.

MC 147886 (Sub-3–8TA), filed December 23, 1980. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Castings* from Biscoe, NC; Statesboro, GA; West Points, GA; Bessemer, AL; and Jacksonville, FL to Palestine and Houston, TX. Supporting shipper: Cal-Tex Metals, P.O. Box 19250, Houston, TX 77024.

MC 107515 (Sub-3–88TA), filed December 23, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, Esq., 3390 Peachtree Rd., NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Meats, meat products, meat by-products and articles distributed by meat packinghouses* from St. Paul, MN and its commercial zone to points in AR, CT, DC, DE, IA, IL, IN, KY, LA, MA, MD, ME, MI, MO, NH, NJ, NY, OH, PA, RI, VA, VT, WI and WV. Supporting Shipper: Champion's Wholesale Meat, 1324 W. 7th Street, St. Paul, MN 55102.

MC 140484 (Sub-3–16TA), filed December 23, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day, (same address as applicant). *Non-alcoholic beverages (except in bulk)* from Columbus, GA, to points in Charlotte, Collier and Lee Counties, FL. *Materials and supplies and equipment (except articles which because of size and weight requiring specialized equipment) used in the manufacture and distribution of non-alcoholic beverages* from points in Charlotte, Collier, Hillsborough, Lee, Orange, Pinellas, and Polk Counties, FL, to points in AL and GA. Supporting Shipper: Pepsi Cola Bottlers of S.W. Florida, Inc., 3585 Anderson Avenue, Fort Myers, FL 33901.

MC 153295 (Sub-3–1TA), filed December 23, 1980. Applicant: BRONCO, INC., P.O. Box 11885, Lexington, KY 40578. Representative: Francis W. McInerny, Esq., 1000 16th St., NW., No. 502, Washington, DC 20036. *General commodities (except classes A & B explosives and household goods as defined by the Commission)* between points in the U.S. in and east of TX, OK, CO, NE, SD, and ND. There are 22 supporting shippers. Their statements may be examined at the ICC Regional Office in Atlanta, GA.

MC 75840 (Sub-3–34), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or used by a manufacturer of glass containers (except in bulk)* between the facilities of Chattanooga Glass Company, at or near Mt. Vernon, Columbus and Baltimore, OH; Corsicana and Dallas, TX; Keyser, WV; Chattanooga, TN; and Mineral Wells and Gulfport, MS, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: Chattanooga Glass Company, 400 West 45th Street, Chattanooga, TN 37410.

MC 138157 (Sub-3–39TA), filed December 23, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, (same as above). *Hospital equipment, materials, and supplies* from Johnson City, TN to the Portland, OR; Seattle, WA; and Salt

Lake City, UT commercial zones. Restricted to traffic originating at the facilities of American Pharmaseal Division of American Hospital Supply Corp. Supporting Shipper: American Pharmaseal Division of American Hospital Supply Corp., 1015 Grand View Avenue, Glendale, CA, 91201.

MC 153302 (Sub-3-1TA), filed December 23, 1980. Applicant: M. E. HALL, d.b.a. HALL TRUCKING COMPANY, 88 West Middle St., Montevallo, AL 35115. Representative: D. H. Markstein, Jr., 512 Massey Bldg., Birmingham, AL 35203. *General commodities except household goods, explosives, commodities in bulk in tank vehicles, dangerous commodities and those of unusual value* between points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, MO, NC, OH, TN and TX. There are 10 statements in support to this application which may be examined at the ICC Regional office in Atlanta, GA.

MC 141339 (Sub-3-1TA), filed December 23, 1980. Applicant: DAVIS, INC., Route 3, Box 651, Starke, FL 32091. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Cleaning compounds and related articles and materials and supplies used in the manufacture, production and distribution of cleaning compounds and related articles,* between points in Middlesex County, NJ, on the one hand, and, on the other, points in NC, SC, GA and FL. Supporting shipper: Economics Laboratory, Inc., 370 Wabasha, Osborn Building, St. Paul, MN 55102.

MC 75840 (Sub-3-35TA), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of traffic control products (except in bulk),* between the facilities of Cataphote Division—Ferro Corporation, located at or near Jackson, MS, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: Cataphote Division—Ferro Corporation, 1001 Underwood Drive, Jackson, MS 39205.

MC 153202 (Sub-3-1TA), filed December 23, 1980. Applicant: SEA TRANSPORT, INC., 2455 SW 12th St., Miami, FL 33235. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW 53d St., Miami, FL 33166. *Trailers and containers, with or without wheels, loaded or empty,* between all points in FL in, east and south of the western boundary of Jefferson County, FL, *restricted* to traffic having an immediately prior or subsequent movement by water in interstate or foreign commerce. There are approximately 12 statements of shipper support to this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 108074 (Sub-3-17TA), filed December 23, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221, S., Forest City, NC 28045. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Such commodities as are used or dealt in by wholesale, retail and chain grocery houses, foodstuffs and materials, ingredients and supplies used in the manufacture and distribution of foodstuffs* between points in Ohio on the one hand and on the other, points in the states of AL, AR, AZ, CA, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MI, MN, MO, MS, MT, NC, ND, NE, NM, NV, OH, OK, OR, SC, SD, TN, TX, VT, VA, WA, WI, WV and WY. Restricted to traffic originating at or destined to the facilities utilized by the Stouffer Corporation. Supporting shipper: Stouffer Foods Corp., 5750 Harper Rd., Solon, OH.

MC 144442 (Sub-3-4TA), filed December 22, 1980. Applicant: ESSEX EXPRESS, INCORPORATED, 1200 Hammondville Road, Pompano Beach, FL 33060. Representative: D. A. Allen, 2550 M Street, N.W., Washington, D.C. 20037. *Contract carrier;* Irregular: *General commodities (except those of unusual value, Class A & B explosives, household goods and commodities in bulk) when moving on a bill of lading issued by West Coast Shippers' Association, Philadelphia, PA between points in the U.S. (except AK and HI) under a continuing contract with West Coast Shippers' Association, Philadelphia, PA.* Supporting shipper: West Coast Shippers' Association, 2000 South 71st Street, Philadelphia, PA 19142.

MC 151549 (Sub-3-1TA), filed December 22, 1980. Applicant: J. W. RAWLEY, 431 Gravely Street, Mt. Airy, NC 27030. Representative: Wayne M. Harrell, P.O. Box 1124, Mt. Airy, NC 27030. *Contract carrier,* irregular routes; *Portable utility buildings,* from Mt. Airy, NC to various sales lots in the following states: NC, SC, VA, GA, KY, TN, WV. Supporting shipper: Leonard Aluminum Utility Buildings, Inc., P. O. Box 1124, Mt. Airy, NC 27030.

MC 144740 (Sub-3-5TA), filed December 22, 1980. Applicant: L. G. DEWITT, INC., P. O. Box 70, Ellerbe, NC 28338. Representative: Fred Daugherty (same address as applicant). *Contract carrier,* irregular routes, *floor covering products and accessories and tires,* From: Lancaster and Conshohocken, PA, Buffalo, NY, and Huntsville, AL, To: Carson, CA, under a continuing contract with J. N. Ceazan Co. Supporting shipper: J. N. Ceazan Co., 1113 East 230th Street, Carson, CA 90745.

MC 56679 (Sub-3-26TA), filed December 22, 1980. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: David L. Capps (same address as applicant). *General Commodities (except classes A & B explosives and household goods as defined by the Commission) having a prior or subsequent movement by water or rail* between Norfolk, Newport News, and Portsmouth, VA and points within their commercial zones, on the on hand, and, on the other, points in VA, WV, and KY. Supporting shippers: There are 6 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, GA. Applicant intends to tack to its present authority.

MC 52704 (Sub-3-13TA), filed December 22, 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. (1) *Containers and container parts* and (2) *materials, equipment and supplies used in the manufacture or distribution of containers and container parts* between points in Lincoln and Union Parishes, LA; Vance County, NC; and Greenville and Laurens Counties, SC, on the one hand, and, on the other, points in IL, IN, MI, and OH. Supporting shipper: Laurens Glass Company, P. O. Box 9, Laurens, SC 29360.

MC 75840 (Sub-3-32), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr. Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of canned or frozen foodstuffs (except in bulk),* between the facilities of Hanover Brands, Inc., located at or near Hanover, PA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, FL, GA, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting Shipper: Hanover Brands, Inc., Post Office Box 334, R.D. No. 3, Hanover, PA 17331.

MC 45656 (Sub-3-3TA), filed December 22, 1980. Applicant: ANDERSON TRUCK LINE, INC., P.O. Box 1196, Lenoir, NC 28645. Representative: Dan E. Anderson (same

address as above). *Furniture, furniture parts and materials used in the manufacture and distribution of furniture (except commodities in bulk)* between points in MD, VA, DC, NC, SC, GA, AL, and TN. Supporting shippers: there are twenty (20) supporting statements attached to this application which may be examined at the Atlanta, GA regional office.

Note.—Applicant intends to interline with other carriers.

MC 56679 (Sub-3–25TA), filed December 22, 1980. Applicant: BROWN TRANSPORT CORP., 325 University Ave., SW., Atlanta, GA 30310. Representative: David L. Capps (same address as applicant). *Foodstuffs (except commodities in bulk)* from Morgan County, AL to points in LA and TX. Supporting shipper: Conagra, Inc., 2050 Market Street, Decatur, AL 35601.

MC 124117 (Sub-3–5TA), filed December 22, 1980. Applicant: EARL FREEMAN AND MARIE FREEMAN d.b.a. MID–TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Motor vehicles and commercial oils, greases, coolants and lubricants (except in bulk)* from Chicago, IL, Montgomery, AL, New Orleans, LA, St. Louis, MO, and Woods River, IL (and the commercial zone of each) to Franklin, TN (and its commercial zone). Supporting shipper: Cameron Oil Co., Inc., P.O. Box 446, Franklin, TN 37064.

MC 144225 (Sub-3–4TA), filed December 22, 1980. Applicant: JADEEL TRUCKING, INC., 8333 W. McNab Road, Tamarac, FL 33321. Representative: Raymond P. Keigher, Esquire, 401 E. Jefferson St., Suite 102, Rockville, MD 20850. *Contract; Irregular: lumber, lumber products* and *building materials (except commodities in bulk)*, from points in AL, CA, FL, GA, ID, MA, ME, MT, NC, NH, NY, OR, SC, VA, VT, and WA, to those points in the United States in or east of AR, IA, LA, MN, and MO, under continuing contract(s) with Competitive Building Materials, Inc. Supporting Shipper: Competitive Building Materials, Inc., 107 E. Country Road, Ardmore, PA 19003.

MC 75840 (Sub-3–30TA), filed December 19, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of paints and adhesives (except in bulk)*, between the facilities of Farboil Company, at or near Baltimore, MD, on the one hand, and, on the other, points in OH and NJ. Supporting shipper: Farboil Company, 8200 Fischer Road, Baltimore, MD 21222.

MC 75840 (Sub-3–31TA), filed December 19, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of canned goods (except in bulk)*, between the facilities of National Fruit Product Co., Inc., at or near Martinsburg, WV; Winchester and Timberville, VA; and Lincolnton, NC, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: National Fruit Product Co., Inc., Post Office Box 2040, Winchester, VA 22601.

MC 75840 (Sub-3–29TA), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of chemicals and chemical products, (except in bulk)*, between the facilities of MonCo Products, Inc., at or near Monongahela, PA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: MonCo Products, Inc., 731 East Main Street, Monongahela, PA 15063.

MC 150403 (Sub-3–2TA), filed December 18, 1980. Applicant: CROWN EXPRESS, INC., P.O. Box 21396, Columbia, SC 29221. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Carpet, carpeting, padding, and floor covering material*, from the facilities utiltized by Commerical Affiliates, Inc., at or near Greenville, SC, Dalton, GA and Rome, GA to points in the U.S. (except AK and HI). Supporting shipper: Commercial Affiliates, Inc., Box 4137, Park Place, Greenville, SC 29608.

MC 144442 (Sub-3–3TA), filed December 18, 1980. Applicant: ESSEX EXPRESS, INCORPORATED, 1200 Hammondville Road, Pompano Beach, FL 33060. Representative: D. A. Allen, 2550 M Street, NW., Washington, D.C. 20037. *Contract carrier:* Irregular. *Such merchandise as is dealt in by retail department stores (except commodities in bulk)* between points in the U.S. (except AK and HI) on a continuing contract with Allied Stores Marketing Corporation, New York, NY. Supporting shipper: Allied Stores Marketing Corporation, 1114 Avenue of the Americas, New York, NY 10036.

MC 75840 (Sub-3–28TA), filed December 18, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in by a manufacturer of cleaning, scouring, washing and buffing compounds (except in bulk)*, between the facilities of Rockester Midland Corp., at or near Rochester, NY, on the one hand, and, on the other, points in GA, NC, SC, VA, DE, MD, PA and NJ. Supporting shipper: Rochester Midland Corp., Post Office Box 1515, Rockester, NY 14603.

MC 108651 (Sub-3–7TA), filed December 18, 1980. Applicant: ROY B. MOORE, INC., P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). *Aluminum and aluminum articles*, between Elizabethton, TN, and Rochester, NY. Supporting shipper: Jarl Extrusions, Inc., Elizabethton, TN 37643.

MC 56679 (Sub-3–27TA), filed December 22, 1980. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: Leonard S. Cassell (same as applicant). *Common*, regular, *general commodities, with the usual exceptions*, (1) between Cincinnati, OH and Minneapolis, MN, from Cincinnati over US Hwy 27 to jct US Hwy 35, then over US Hwy 35 to jct US Hwy 31, then over US Hwy 31 to jct US Hwy 30, then over US Hwy 30 to jct US Hwy 41, then over US Hwy 41 to jct US Hwy 12, then over US Hwy 12 to Minneapolis, MN and return over the same route serving all intermediate points; (2) between Cincinnati, OH and Indianapolis, IN over I–74 serving all intermediate points in OH; (3) between Indianapolis, IN and Richmond, IN over US Hwy 40, serving all intermediate points; (4) between Indianapolis, IN and Minneapolis, MN, from Indianapolis over I–65 to jct I–90, then over I–90 to jct I–94, then over I–94 to Minneapolis, MN and return over the same route, serving all intermediate points in IL, WI and MN; (5) between Peru, IN and Muncie, IN, from Peru, over IN Hwy 21 to jct IN Hwy 18, then over IN Hwy 18 to jct IN Hwy 9, then over IN Hwy 9 to jct IN Hwy 32, then over IN Hwy 32 to Muncie, IN and return over the same route serving all intermediate points; (6) Between West College Corner, IN and jct US Hwy 35 and IN Hwy 22, from West College Corner, IN over US Hwy 27 to jct Hwy IN 1, then

over IN Hwy 1 to jct IN Hwy 38, then IN Hwy 38 to jct IN Hwy 3, then over IN Hwy 3 to jct In Hwy 26, then over IN Hwy 26 to jct IN Hwy 22, then over IN Hwy 22 to jct US Hwy 35, and return over the same route, serving all intermediate points; (7) between Anderson, IN and Indianapolis, IN, from Anderson, IN over IN Hwy 32 to jct IN Hwy 37, then over IN Hwy 37 to Indianapolis, IN and return over the same route, serving all intermediate points; (8) between Union City, IN and Muncie, IN over IN Hwy 32, serving all intermediate points; (9) between Chicago, IL and Madison, WI, from Chicago, over US Hwy 20 to jct IL Hwy 72, then over IL Hwy 72 to jct US Hwy 51, then over US Hwy 51 to jct US Hwy 14, then over US Hwy 14 to Madison, WI and return over the same routes, serving all intermediate points and serving all points within 25 miles of Chicago, IL as off-route points; (10) between Chicago, IL and Madison, WI over I-94 serving all intermediate points; (11) between Chicago, IL and Omaha, NE over US Hwy 6 serving all intermediate points; (12) between Chicago, IL and Omaha, NE over I-80 serving all intermediate points; (13) between Chicago, IL and Chippewa Falls, WI, from Chicago, IL over US Hwy 34 to jct IL Hwy 92, then over IL Hwy 92 to jct US Hwy 67, then over US Hwy 67 to jct US Hwy 52, then over US Hwy 52 to jct US Hwy 61, then over US Hwy 61 to jct US Hwy 53, then over US Hwy 5 to Chippewa Falls, WI and return over the same routes, serving all intermediate points; (14) between Rockford, IL and Peoria, IL, from Rockford, IL over US Hwy 51 to jct IL Hwy 29, then over IL Hwy 29, to Peoria, IL and return over the same routes, serving all intermediate points; (15) between Rockford, IL and Moline, IL over IL Hwy 2, serving all intermediate points; (16) between Sioux City, IA and Keokuk, IA, from Sioux City, over US Hwy 20 to jct US Hwy 69, then over US Hwy 69 to jct IA Hwy 92, then over IA Hwy 92 to jct IA Hwy 137, then over IA Hwy 137 to jct IA Hwy 23, then over IA Hwy 23 to jct US Hwy 34, then over US Hwy 34 to jct US Hwy 61, then over US Hwy 61 to Keokuk and return over the same routes serving all intermediate points; (17) between jct US Hwy 20 and US Hwy 69 and Dubuque, IA over US Hwy 20, serving all intermediate points; (18) between Ames, IA and Iowa City, IA, from Ames over US Hwy 30 to jct I-380, then over I-380 to Iowa City and return over the same route, serving all intermediate points; (19) between Cedar Falls, IA and Cedar Rapids, IA over US Hwy 218, serving all intermediate points; (20) between Council Bluffs, IA and Sioux City, IA over I-29, serving all intermediate points; (21) between Davenport, IA and Burlington, IA over US Hwy 61, serving all intermediate points; (22) between Minneapolis, MN and jct US Hwy 65 and US Hwy 20 over US Hwy 65 serving all intermediate points; (23) between Minneapolis, MN and Des Moines, IA over I-35, serving all intermediate points; (24) between St. Cloud, MN and Minneapolis, MN over US Hwy 10, serving all intermediate points; (25) between Minneapolis, MN and Mankato, MN over US Hwy 169, serving all intermediate points; (26) between Milwaukee, WI and Green Bay, WI over US Hwy 141, serving all intermediate points; (27) between Milwaukee, WI and Green Bay, WI over US Hwy 41, serving all intermediate points; (28) between Peoria, IL and jct I-74 and I-80 over I-80, serving all intermediate points; (29) between Fond du Lac, WI and Cedar Rapids, IA over US Hwy 151, serving all intermediate points; (30) between Dayton, OH and Richmond, IN over US Hwy 35, serving all intermediate points. Serving Pembina, ND and all points in IA, MN and WI as off-route points in connection with the above regular routes. Also, serving all points in the commercial zones of authorized points in routes 1 thru 30. Interline is requested at points in Cincinnati, OH; Indianapolis, Muncie, IN; Chicago, Peoria, IL; Sioux City, Davenport, Des Moines, Council Bluffs, IA; Rock Island, IL; Milwaukee, WI; Minneapolis/St. Paul, MN; Pembina, ND; Omaha, NE. Carrier is requesting to tack this authority with existing authority. There are 36 supporting shippers' statements whose statements may be reviewed at the Regional Office of the ICC in Atlanta, GA.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 119654 (Sub-4-7TA), filed December 16, 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. *Electrical equipment and parts thereto, televisions, radios, stereos, tape recorders, computers, video recorders, cabinet speakers, stereo speakers, security systems, and materials, equipment and supplies* used in the manufacture thereof, between points in IL, IN, KY, MI, MO, OH, PA, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Zenith Radio Corporation, 1900 North Austin, Chicago, IL 60639.

MC 107295 (Sub-4-25TA), filed December 16, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). *Iron and steel articles and materials, supplies and equipment used in the manufacture, processing, sale and distribution thereof* between the facility of Armco, Inc. in Jessamine County, KY, on the one hand, and, on the other, points in the U.S. Supporting shipper: Armco, Inc. 703 Curtis St., Middletown, OH 45043.

MC 108859 (Sub-4-9TA), filed December 12, 1980. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *General commodities (except household goods as defined by the Commission, Classes A and B explosives, and those requiring special equipment),* between the facilities of MTD Products, Inc., and its divisions or subsidiaries located at Shelby (Richland County), Willard (Huron County), and Wooster, (Wayne County), OH, on the one hand, and on the other, points presently served by applicant in interestate operations An underlying ETA seeks 120 days authority. Supporting shipper: MTD Products, Inc., 979 South Conwell Avenue, Willard, OH 44890. Applicant intends to tack the authority here applied for to other authority held by it. Applicant intends to interline with other carriers.

MC 148119 (Sub-4-1TA), filed December 12, 1980. Applicant: T. B. & P. EXPRESS, INC., P.O. Box 71, Daleville, IN 74334. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: Irregular: Materials, supplies or products used in the manufacture and distribution of home entertainment products* between pts in IN, OH and PA for the account of RCA Corporation. Restricted to traffic originating at or destined to the facilities of RCA Corporation. Supporting shipper: RCA Corporation, Route 38, Cherry Hill, NJ 08358.

MC 142888 (Sub-4-4), filed December 12, 1980. Applicant: COX TRANSFER, INC., P.O. Box 168, Eureka, IL 61530. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Corrogated and uncorrogated cardboard cartons,* from Crawfordsville, IN to Streator, IL. Supporting shipper: Thatcher Glass Company, P.O. Box 265, Elmira, NY 14902

MC 153148 (Sub-4-1), filed December 15, 1980. Applicant: MERLE HOUGH,

P.O. Box 2, Detroit Lakes, MN 56501. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. *Building board with decorative rock face* from Detroit Lakes, MN, to points in the U.S. (except AK and HI). Supporting shipper: Picture Rock Corporation, Star Route, Detroit Lakes, MN.

MC 148428 (Sub-4-4), filed December 15, 1980. Applicant: BEST LINE, INC., 10181 Crosstown Circle, Eden Prairie, MN 55344. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. *Waterbeds and parts and accessories for waterbeds;* from Los Angeles, CA to Boulder, CO, Des Moines, IA, St. Cloud, MN and Seattle, WA. Supporting shipper: Midwest Waterbeds Distribution, Inc., 220 7th Avenue South, St. Cloud, MN 56301.

MC 153075 (Sub-4-1), filed December 15, 1980. Applicant: SHERMAN HANSON d.b.a. HANSON TRUCKING, 402 Center St., Box 256, Boyceville, WI 54725. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Contract* irregular: *Iron castings and materials and supplies used and distributed by foundries,* between points in the U.S., under continuing contracts with: (1) Badger Iron Works, Inc., Route 2, Parkway Road, Menomonie, WI 54751, and (2) Scott-Atwater Foundry Co., 2200 1st Street N., Minneapolis, MN 55411.

MC 145394 (Sub-4-13), filed December 12, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract;* irregular; *Lawn equipment, gym apparatus, vacuum cleaners, saw benches, tool boxes, hand tools, and materials and equipment used in the manufacture of those commodities* between Polo, IL, and points in the U.S. (except IN, IA, MI, MN, and WI). Restriction: Restricted to transportation performed under a continuing contract(s) with Central Quality Industries, Inc., An underlying ETA seeks 120 days authority. Supporting shipper: Central Quality Industries, Inc., 900 S. Division St., Polo, IL 61064.

MC 8515 (Sub-4-5TA), filed December 12, 1980. Applicant: TOBLER TRANSFER, INC., Junction IL 80 and IL 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 S. La Salle St., Chicago, IL 60603. *General commodities (except commodities in bulk),* between Rockford, IL on the one hand, and, on the other, points in WI within 25 miles of Janesville, WI, including Janesville, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Caterpillar Tractor Co., 100 N.E. Adams St., Peoria, IL 61629.

MC 153149 (Sub-4-1TA), filed December 16, 1980. Applicant: M. L. SMIT TRUCKING, INC., 17315 Thornwood Court, South Holland, IL 60473. Representative: Raymond D. Stegenga (same as applicant). *Contract:* Irregular; *Furniture, cleaning products, materials, equipment and supplies,* used in the manufacture and distribution thereof, between Cook County, IL, and points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shippers: Sovereign Furniture Manufacturing, 401 N. Williams St., Thornton, IL 60476. Unichem Corporation, 15475 S. La Salle St., S. Holland, IL 60473.

MC 146985 (Sub-4-5), filed December 15, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46514. Representative: Phillip A. Renz, Grotrian & Boxberger, Attorneys at Law, Suite 200—Metro Building, Fort Wayne, IN 46802. *Contract* irregular: (1) *Drugs, medicines, and chemicals and* (2) *materials, equipment, and supplies used in the manufacture and distribution of the items named in (1) above.* Between Elkhart, IN and points in MI, FL, GA, MD, NJ, NY, VA, NC, SC, and PA. Restriction: Restricted to service to be performed under contracts with The Upjohn Company. Supporting shipper: The Upjohn Company, 701 East Milham Road, Portage, MI 49081.

MC 146985 (Sub-4-4), filed December 15, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46514. Representative: Phillip A. Renz, Grotrian & Boxberger, Attorneys at Law, Suite 200—Metro Building, Fort Wayne, IN 46802. *Contract* irregular: (1) *Air conditioners, generators, industrial floor, carpet, and cleaning machines, refrigerators and all other appliances and parts, not specifically named herein, for recreational vehicles, and* (2) *materials, equipment, and supplies in the manufacture and distribution of the items named in (1) above.* Between Elkhart, IN and Pendleton, OR; Omaha, NE; Rialto, CA; Hancock, MD; Longview, TX; Williamsport, MD; Edgerton, OH; San Bernardino, CA; La Grande, OR; Waco, TX; Winchester, VA; Benton Harbor, MI; Jackson Center, OH; Olmey, TX; Grapevine, TX; Ardmore, OK; Forest City, IA; Riverside, CA; and Paxinos, PA. Restriction: Restricted to service to be preformed under continuing contracts with Dometic Sales Corporation. Supporting shipper: Dometic Sales Corporation, 2320 Industrial Parkway, Elkhart, IN 46515.

MC 146438 (Sub-4-3TA), filed December 15, 1980. Applicant: ETV, INC., 3066 3 Mile Road, NW., Grand Rapids, MI 49504. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Materials and supplies used in the sales and production of infants' and children's wear* from all points in NC and TN to the facilities of H. H. Cutler Co. MI, NC and TN. Supporting shipper: H. H. Cutler Co., 120 Ionia, SW., Grand Rapids, MI 49501.

MC 136635 (Sub-4-14TA), filed December 16, 1980. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Paper and paper products* and *materials, equipment and supplies used in the manufacture of paper and paper products,* between Marion County, IN, on the one hand, and, on the other, points in AL, GA, IL, IA, KY, LA, MI, MS, OH, TN, and WI. Supporting shipper: Central Corrugated, Inc., West 82nd St., Indianapolis, IN 46240.

MC 136635 (Sub-4-15TA), filed December 16, 1980. Applicant: WHITEFORD TRUCK LINES, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Paper, paper products, scrap or waste paper, plastic articles, materials and supplies used in the manufacture and distribution of paper, paper products and plastic articles* between points in CT, GA, DE, IL, IN, KS, KY, MD, MA, MI, MN, MS, NE, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and WI. Supporting shipper: Stone Container Corporation, 360 N. Michigan Ave., Chicago, IL 60601.

MC 119654 (Sub-4-7TA), filed December 16, 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. *Electrical equipment and parts thereto, televisions, radios, stereos, tape recorders, computers, video recorders, cabinet speakers, stereo speakers, security systems, and materials, equipment and supplies* used in the manufacture thereof, between points in IL, IN, KY, MI, MO, OH, PA, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Zenith Radio Corporation, 1900 N. Austin, Chicago, IL 60639.

MC 153220 (Sub-4-1TA), filed December 18, 1980. Applicant:

RECOVERY SPECIALISTS, INC., P.O. Box 255, Saline, MI 48176. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Hazardous waste materials, in bulk or in containers,* between points in MI and points and places in the U.S. except AK and HI. An underlying ETA seeks 120 days authority. Supporting shippers: Consumers Power Company, 211 W. Michigan Ave., Jackson, MI 49201; Detroit Edison Company, 2000 Second Ave., Detroit, MI 48226; Transformer Inspection—Retro Fill Corp., 2704 Normondy Road, Royal Oak, MI 48073.

MC 58954 (Sub-4–2TA), filed December 19, 1980. Applicant: MCNAMARA MOTOR EXPRESS, INC., P.O. Box 2082, Kalamazoo, MI 49003. Representative: Carol A. Brigance (same as applicant). *General commodities (except commodities transported in bulk) from, to, or between the following points or described area;* between points within the States of MI, IL and IN to and serving Toledo, OH, Cleveland, OH, Eria, PA and Buffalo NY as off route points in conjunction with carriers regular route authority. Supporter shipper: Josam Manufacturing Company, Michigan City, IN 46360.

MC 111375 (Sub-4–3TA), filed December 19, 1980. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: James A. Matras (same address as applicant). *Toilet preparations, cleaning compounds, and chemicals (except in bulk)* from Barrington, IL, to Great Falls, MI, and from Fond du Lac, WI, to Oakland, CA, and Portland, OR. An underlying ETA seeks 120 days authority. Supporting shippers: Park Corporation, 511 Lake Zurich Rd., Barrington, IL 60010; and Tobiason Central, 680 E. Fond du Lac St., P.O. Box 67, Ripon, WI 54971.

MC 134518 (Sub-4–1TA), filed December 15, 1980. Applicant: CHEESE HAULING, INC., P.O. Box 1973, Bismarck, ND 58501. Representative: Carl E. Munson, 469 Fisher Building, Dubuque, IA 52001. *Such commodities as are dealt in by retail gift and curio shops;* from the facilities of Swiss Colony, Inc., and Swiss Colony Stores, Inc., at Madison and Monroe, WI, to Worthington, MN, Bismarck, Dickinson and Minot, ND, and Watertown, SD. Supporting shippers: Swiss Colony, Inc., and Swiss Colony Stores, Inc., 1112 7th Avenue, Monroe, WI 53566.

MC 120618 (Sub-4–4), filed December 17, 1980. Applicant: SCHALLER TRUCKING CORPORATION, 5700 W. Minnesota St., Indianapolis, IN 46241. Representative: Stephen M. Gentry, 1502 Main St., Speedway, IN 46224. *Aluminum castings, scrap aluminum, and empty containers* between Athens, AL, on the one hand and, on the other, Bedford, IN. An underlying ETA seeks 120 days authority. Supporting shipper: Central Foundry, Division of General Motors Corporation, 77 W. Center St., Saginaw, MI 48605.

MC 148543 (Sub-4–1TA), filed December 17, 1980. Applicant: K.T. TRANSPORT, INC., 2320 Coyle Drive, New Albany, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Plastic laminated sheets,* from Chicago, IL, to Indianapolis and Evansville, IN, Louisville, KY, Cincinnati, and Columbus, OH. Supporting shipper: Wilsonart, Division of Dart Industries, 1100 Chase Ave., Elk Grove Village, IL.

MC 120924 (Sub-4–1TA), filed December 17, 1980. Applicant: B & W CARTAGE CO., INC., 2932 W. 79th St. Chicago, IL 60652. Representative: Carl. L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *General Commodities, auto parts or parts used in the manufacture of automobiles* between points in the states of PA and DE on trailer-load movements having a prior or subsequent movement by rail. Supporting shipper: Chrysler Corporation, P.O. Box 1976, Detroit, MI 48288.

MC 133566 (Sub-4–13TA), filed December 17, 1980. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, Blanshan & Summerfield, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *(1) Foodstuffs (except commodities in bulk) and (2) materials, equipment and supplies used in the manufacture, packaging and distribution of foodstffs (except commodities in bulk),* between the facilities of William Underwood Company at Portland, ME and Hannibal, MO, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Wm. Underwood Co., One Red Devil Lane, Westwood, MA 02090.

MC 153196 (Sub-4–1TA), filed December 17, 1980. Applicant: PRINCL FREIGHTLINES, INC., 1641 Carole Lane, Green Bay, WI 54303. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, Madison, WI 53705. *Contract; Irregular; Cheese, cheese products, and butter, when moving in mixed shipments with cheese and cheese products.* From Lena, WI to all points in KY, WV, VA, TN, NC, SC, LA, MS, AL, GA and FL, under continuing contract(s) with Frigo Cheese Corp., of Lena, WI. A corresponding ETA seeks 120 days authority. Supporting shipper: Frigo Cheese Corporation, P.O. Box 158, Lena, 54139.

MC 136848 (Sub-4–1), filed December 18, 1980. Applicant: JAMES BRUCE LEE & STANLEY LEE, d.b.a LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, IL 61764. Representative: Edward F. Stanula, Attorney, 837 East 162nd Street, South Holland, IL 60473. *Contract;* Irregular; *General commodities* except class A & B explosives and household goods as defined by the Commission, between points in the U.S., under continuing contract with Pontiac Furniture Industries, Inc., Pontiac, IL 61764.

Mc 152198 (Sub-4–1TA), filed December 4, 1980. Applicant: LYNN LAKE TRANSPORTATION, LTD., 842 Convent Avenue, St. Norbert, Manitoba R3V 1G8. Representative: David C. Britton, 1425 Cottonwood Street, Grand Forks, ND 58201. *Cat litter, produced from clay,* from Mounds, IL to ports of entry on the U.S.-Canadian border located at Noyes, MN, Detroit and Port Huron, MI, and Champlain, NY. An underlying ETA seeks 120 days authority. Supporting shipper: Absorbent Clay Products, Inc., 200 North Main, Anna, IL 62906.

MC 126159 (Sub-4–1TA), filed December 16, 1980. Applicant: APACHE EXPRESS, LTD., P.O. Box 341, Lannon, WI 53046. Representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Salt and salt products,* from Chicago, IL, Clinton and Dubuque, IA, Manistee, MI, Duluth, MN, St. Louis, MO, Cincinnati, OH, and Green Bay, La Crosse, Marinette, Milwaukee, Prairie du Chien, and Superior, WI, to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, TN, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Domtar Industries, Inc., 4825 North Scott St., Schiller Park, IL.

MC 10761 (Sub-4–1TA), filed December 1, 1980. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 2843 E. Paris Rd., Grand Rapids, MI 49508. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW, Washington, DC 20036. *Regular Common, General Commodities (except household goods, Class A and B explosives, commodities requiring the use of special equipment, commodities of unusual value, and commodities in bulk),* serving Milan, and Romeo, MI, and Berrien, Van Buren, and Allegan Counties, MI, Baltimore, MD, Norfolk, VA, points in their respective commercial zones, and points in NJ, NY, OH and PA as off-route points in connection with carrier's existing regular-route authority. Applicant

intends to tack this authority with its existing regular and irregular route authority. Supporting shippers: There are six (6) supporting statements.

MC 14277 (Sub-4–1TA), filed December 17, 1980. Applicant: CHICAGO-AURORA MOTOR SERVICE, INC., P.O. Box 31, Aurora Ave. Lane, Aurora, IL 60507. Representative: Paul J. Maton, 10 S. La Salle St., Suite 1620, Chicago, IL 60603. *General Commodities (except household goods as defined by the Commission and Classes A and B explosives)* between points in MN, IA, MO, MI, WI, IL, IN, OH, and KY. Supporting shipper: There are 14 supporting shippers.

MC 153191 (Sub-4–1TA), filed December 15, 1980. Applicant: SANTERRE SERVICE, INC., P.O. Box 6174, Duluth, MN 55807. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. *Malt beverages* from Milwaukee, WI to the facilities of Ribbon Distributing Company and Rolhfing Distributing Company at Duluth, MN, Starkovich Distributing Company at Virginia, MN, and Mahnich Distributing Company at Eveleth, MN. There are four supporting shippers.

MC 152412 (Sub-4–2TA), filed December 15, 1980. Applicant: VAN EERDEN TRUCKING COMPANY, INC., 1150 Freeman, S.W., Grand Rapids, MI 49503. Representative: J. Michael Smith, 465 Old Kent Building, Grand Rapids, MI 49503. *Apple juice, apple cider, vinegar and apple products* between points in the U.S., under the continuing contract with Indian Summer, Inc., Belding and Coloma, MI. Supporting shipper: Indian Summer, Inc., Belding & Coloma, MI.

MC 145359 (Sub-4–3TA), filed December 16, 1980. Applicant: THEROMO TRANSPORT, INC. P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Drugs, medicines, toilet preparations and chemicals* from the facilities of Miles Laboratories, Inc. at Elkhart, IN, and Dayton, OH, to Los Angeles, and San Francisco, CA, Portland, OR, Seattle, Spokane, and Yakima, WA. Supporting shipper: Miles Laboratories, Inc., Elkhart, IN 46514. An underlying ETA seeks 120 days authority.

MC 134979 (Sub-4–2TA), filed December 16, 1980. Applicant: DAGGETT TRUCK LINE, INC., Frazee, MN 56544. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract;* irregular: *Nonexempt food or kindred products,* from points in CA, OR and WA, to the facilities of Gentle Sky Cooperative Foods at Minneapolis, MN. Under contract(s) with Gentle Sky Cooperative Foods. Supporting shipper: Gentle Sky Cooperative Foods, 510 Kasota Avenue, Minneapolis, MN 55414. An underlying ETA seeks 120 days authority.

MC 153194 (Sub-4–1TA), filed December 17, 1980. Applicant: BETTER-BRITE TRUCKING, INC., 511 Lande Street, DePere, WI 54115. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract; irregular; general commodities* between points and places in the U.S. except AK and HI under contract to Better-Brite Plating, Inc. and subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: Better-Brite Plating, Inc., 511 Lande Street, DePere, WI 54115.

MC 142305 (Sub-4–2TA), filed December 16, 1980. Applicant: WISCONSIN EXPRESS LINES, INC., Route 2, Green Bay, WI 54301. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract, irregular: Foodstuffs,* between the facilities of Detroit City, Dairy, Inc., on the one hand, and, on the other, points in IL, IA, MN, MO, NJ, NY, PA, and WI, under continuing contracts with Detroit City Dairy, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Detroit City Dairy, Inc., 15004 Third Avenue, Highland Park, MI 48203.

MC 123194 (Sub-4–4TA), filed December 16, 1980. Applicant: ENTERPRISE TRUCK LINES, INC., 1336 W. 15th Ave., Gary, IN 46406. Representative: Anthony E. Young, 29 S. La Salle St., Chicago, IL 60603. *Such commodities as are used or dealt in by wholesale, retail and chain grocery and food business houses* between points in IL, IN and MI. An underlying ETA seeks 120 days authority. There are seven (7) supporting shippers.

MC 153190 (Sub-4–1TA), filed December 17, 1980. Applicant: C. & O. TRANSFER, INC., 2120 Prairieton Road, Terre Haute, IN 47802. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. (1) *Glass containers,* from Vigo County, IN; Houston County, GA; Okmulge County, OK; Monmouth County, NJ; and Scott County, MN, to all points in the U.S.; and (2) *Materials, equipment and supplies* used in the manufacture, sale and distribution of glass containers, in the reverse direction. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721.

MC 153192 (Sub-4–1), filed December 17, 1980. Applicant: ORVIN HELGESON d.b.a. HELGESON TRUCKING, 814 19th Street South, Fargo, ND 58103. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. *Contract,* irregular: *Chemicals, (except in bulk),* between points in the United States for the account of Stein Chemical Company, Interstate Seed Corp., and Thermo-Pak Manufacturing, Inc., An underlying ETA seeks 120 days authority. Supporting shipper(s): Stein Chemical Company, 3001 17th Street South, Moorhead, MN 56560; Thermo-Pak Manfacturing, Inc., 5900 7th Ave. North, Box 1496, Fargo, ND 58107; and Interstate Seed Corp., 417 Main, Box 470, Fargo, ND 58107.

MC 135052 (Sub-10TA), filed December 15, 1980. Applicant: ASHCRAFT TRUCKING INC., 875 Webster Street, Shelbyville, 46176. Representative: Warren C. Moberly 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204 *Expanded plastic articles, and materials and supplies used in the manufacture and distribution of same,* except commodities in bulk, and *(2) Furniture parts (more specifically, metal bed springs),* [1] commodities in (1) above between points in Johnson County, IN; Franklin County, OH; and New Castle County, DE, on the one hand, and, on the other, points in and east of TX, OK, KS, NE, SD and ND. [2] Commidities in (2) above between points in Grayson and Scott Counties, KY, on the one hand, and, on the other, points in and east of TX, OK, KS, NE, SD and ND.

MC 142310 (Sub-4–6TA), filed December 15, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703 *Foundry products, and (2) materials, equipment, and supplies uses in the manufacture and distribution of foundry products* between Marinette and Waupaca, WI, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, NE, KS, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Waupaca Foundry, Inc., subsidiary of the Budd Co. Tower Rd., P.O. Box 249, Waupaca, WI 54981

MC 145437 (Sub-4–11TA), filed December 15, 1980. Applicant: JWI TRUCKING, INC., 8100 N. Teutonia Ave., Milwaukee, WI 53209. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703 *Ready made garments and wearing apparel* between Chicago, IL and its commercial zone, OTOH, and, OTO, to points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shippers: Carson, Pirie, Scott & Company, 1 S. State St., Chicago, IL 60603; Chas. A. Stevens & Co., 7001

Commonwealth Dr., LaGrange, IL 60525; Marshall Field & Company, 4000 W. Diversey St., Chicago, IL 60639; and Evans, Inc., 4180 W. Madison St., Hillside, IL 60162.

MC 152981 (Sub-4–1TA), filed December 15, 1980. Applicant: ERIC LOMEN, d.b.a. LOMEN AUTO TRANSPORT R.R. 1, Zumbrota, MN 55992. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. *Used motor vehicles,* between points in IL, MN, WI, IN, ND, SD, IA and NE. Supporting shippers: Kuehn Motor Co., 1210 6th Street, NW., Rochester, MN 55901; L. B. Sales, Inc., 4000 Highway 61, White Bear Lake, MN 55110.

MC 151507 (Sub-4–4 TA), filed December 15, 1980. Applicant: J. LAKES TRUCKING, INC., 2957 S. E. St., Indianapolis, IN 46206. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *(1) Textiles and cotton goods and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk)* between Hamilton, Cincinnati, and St. Marys, OH, on the one hand, and, on the other, pts. in AL, GA, NC, and SC. Supporting shipper: Leshner Corp., 1010 Eaton Avenue, Hamilton, OH 45013.

MC 126111 (Sub-4–4 TA), filed December 15, 1980. Applicant: SCHAETZEL TRUCKING COMPANY, 'NC., 520 Sullivan Dr., Fond du Lac, WI 54935. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract, irregular: Such commodities as are dealt in or used by a manufacturer or distributor of dairy products between points in the United States (except AK and HI).* An underlying ETA seeks 120 days authority. Supporting shipper: Galloway-West Company, a Division of Borden Company, Inc., P.O. Box 987, Fond du Lac, WI. 54935.

MC 109465 (Sub-4–1 TA), filed November 25, 1980. Applicant: GREAT LAKES TERMINAL & TRANSPORT CORPORATION, 1750 N. Kingsbury St., Chicago, IL 60614. Representative: William M. Popadich (same as applicant). *Contract, irregular: Equipment, materials and supplies used or useful in the manufacture, sale or distribution of plastic and/or reinforced plastic materials. Such commodities as are manufactured or distributed by manufactureres and distributors of plastic and/or reinforced plastic materials* between South Bend, IN and points in the U.S. Restricted to traffic moving under continuing contract with Interplastics Corporations: Molding Products Division. Supporting shipper: Molding Products Division, 1545 S. Olive, South Bend, IN 46619. An underlying ETA seeks 120 days authority.

MC 147243 (Sub-4–1 TA), filed November 26, 1980. Applicant: SEYMOUR & SOUTHERN INC., Route 2, Box 267, Seymour, WI 54165. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract,* irregular: *Cheese and cheese products and materials, equipment and supplies* used in the manufacture and distribution of such comodities between Merrill, WI, and points in CT, IL, NJ and NY. Restriction: Restricted to transportation performed under a continuing contract(s) with InoFood Corp. An underlying ETA seeks 120 days authority. Supporting shipper: InoFood Corp., Route 5, Merrill, WI 54452.

The following protests were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 2392 (Sub-5–8TA), filed November 17, 1980. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248 West Omaha Station, Omaha, NE 68124 Representative: Keith D. Wheeler, P.O. Box 14248 West Omaha Station, Omaha, NE 68124. *Phosphatic fertilizer solution (Phos Acid) liquid, in bulk,* in tank vehicles. Between IL (Chicago Heights) IA (Sioux City), NE (Optic). Supporting shipper: Nutra Flo Chemical Company, 1919 Grand Avenue, Sioux City, IA 51107.

MC 29910 (Sub-5–66TA), filed November 17, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *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 Enka, NC and Siloam Springs, AR, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Brand-Rex Company, P.O. Box 2000, Enka, NC 28728.

MC 30059 (Sub-5–2TA), filed November 17, 1980. Applicant: PRENTICE TRUCK LINE, INC., P.O. Box 4201, Ft. Smith, AR 72914. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. Common regular; *general Commodities, with the usual exceptions,* (1) between Ft. Smith, AR and Jackson, MS, serving all intermediate points in Louisiana, from Ft. Smith over U.S. Hwy 71 to Shreveport, LA, then over Int. Hwy 20 (also U.S. Hwy 80) to Jackson and return over the same route; (2) between Ft. Smith, AR and Houston, TX, serving all intermediate points in Texas, from Ft. Smith over U.S. Hwy 59 to Houston and return over the same route; (3) between Houston, TX and New Orleans, LA, serving all intermediate points, from Houston over Int. Hwy 10 to New Orleans and return over the same route; (4) between Shreveport and Baton Rouge, LA, serving all intermediate points, from Shreveport over U.S. Hwy 71 to junction U.S. Hwy 190, then over U.S. Hwy 190 to Baton Rouge and return over the same route; and, (5) between Ft. Smith, AR and Dallas, TX, serving all intermediate points in Texas, from Ft. Smith over U.S. Hwy 71 to junction Int. Hwy 30, then over Int. Hwy 30 to Dallas and return over the same route; (6) between Shreveport, LA and Dallas, TX, serving all intermediate points, from Shreveport over Int. Hwy 20 to Dallas and return over the same route; and (7) between Shreveport, LA and Lake Charles, LA, serving all intermediate points, from Shreveport over U.S. Hwy 171 to Lake Charles and return over the same route; RESTRICTED in Routes (1) through (7) against providing service on traffic moving between points in Texas. Applicant intends to tack this authority with existing authority and interline with other carriers. Supporting shippers: 25.

MC 30844 (Sub-5–38TA), filed November 17, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Kitchen cabinets, vanities, shelf units and materials, equipment and supplies used in the production of described commodities;* between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Triangle Pacific Corp. Supporting shipper: Triangle Pacific Corp., 16803 Dallas Parkway, Dallas, TX 75248.

MC 30844 (Sub-5–39TA), filed November 17, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Food additives or flavoring compounds* between Winsted, CT, on the one hand, and, on the other, all points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Stange Co.-Keratene Div. Supporting

shipper: Stange Co.-Keratene Div., Fruit St., Winsted, CT 06098.

MC 107496 (Sub-5-39TA), filed November 17, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Isopropyl alcohol,* between Chicago, IL and Waunakee, WI. Supporting shipper: Scientific Protein Labs, Inc., 700 E. Main St., Waunakee, WI 53597.

MC 113362 (Sub-5-18TA), filed November 17, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Meats and meat products (except hides and in bulk),* from Palestine, TX to points in the United States in and east of ND, SD, NE, KS, OK, and LA. Supporting shipper: Vernon Calhoun Packing Co., P.O. Box 709, Palestine, TX 75801.

MC 117765 (Sub 5-19), filed November 17, 1980. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan, (same as applicant). *Particle board,* from Evanston (Spencer County), IN to AR and OK. Supporting shipper: Cobb Wood Products, 1815 Progress Way, Clarksville, IN 47130.

MC 117815 (Sub-5-6TA), filed November 17, 1980. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th Street, Des Moines, IA 50317. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Cleaning compounds, laundry products and cleaning utensils,* from the facilities of the Drackett Products Company located at (1) Franklin, KY and Urbana, OH and points in their commercial zones to Chicago, IL, Dallas, TX, Memphis, TN, Kansas City, KS, Minneapolis, MN, Peoria, IL and St. Louis, MO and points in their commercial zones; (2) Franklin, KY and points in its commercial zone to Urbana, OH and points in its commercial zone; and (3) Chicago, IL and points in its commercial zone to Dallas, TX, Memphis, TN and Urbana, OH and points in their commercial zones. Supporing shipper: The Drackett Products Co., Cincinnati, OH.

MC 119399 (Sub-5-33), filed November 17, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara (same as applicant). *Unfinished copper rod, copper cathode, and copper bars* from Pinal County, AZ to points in TX. Supporting shipper: Magma Copper Company, subsidiary of Newmont Mining Corporation, San Manuel and Superior, AZ.

MC 119399 (Sub-5-34), filed November 17, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara (same as applicant). (1) *Plastic insulated copper wire, NOI* from the facilities of Brand-Rex Company located in Buncombe County, NC to points in the U.S., (2) *Materials, supplies and equipment used in the production, manufacture and distribution of commodities named in (1) above* from points in the U.S. to the facilities of Brand-Rex Company located in Buncombe County, NC and Benton County, AR. Supporting shipper: Brand-Rex Company, Enka, NC.

MC 119741 (Sub-5-25), filed November 17, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Automotive or agricultural implement parts and home improvement items,* between Des Moines, IA, on the one hand, and, on the other, points in the U.S. Supporting shipper: Emco Industries, Inc., P.O. Box 853, Des Moines, IA 50304.

MC 119741 (Sub-5-26), filed November 17, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Canned goods and frozen foodstuffs,* from Lyndonville and Brockport, NY to points in IL, IN, KY, MI, MO, OK, and WI. Supporting shippers: Lyndonville Canning Company, 151 West Avenue, Lyndonville, NY and Brockport Cold Storage Co., Inc., 98 Spring St., P.O. Box C, Brockport, NY 14420.

MC 119908(Sub-5-1TA), filed November 17, 1980. Applicant: WESTERN LINES, INC., 3523 N. McCarty—P.O. Box 1145, Houston, TX 77001. Representative: Fletcher W. Cochran, P.O. Box 741, Slidell, LA 70459. *Iron and steel articles; pipe and allied products; machinery and supplies* between Orleans Parish, LA, Jefferson Parish, LA, Jefferson County, AL, and Mobile County, AL, on the one hand, and, on the other, all points in the states of AL, AR, FL, GA, LA, MS, TN and TX. Supporting shippers: R & T Steel Company, 3148 Cobblestone Drive, Birmingham, AL 35215. Quast & Co., Inc., 300 Poydras Street, New Orleans, LA 70130. Avondale Steel, 4000 Peters Road, Harvey, LA 70059.

MC 124988, (Sub-5-1TA), filed November 17, 1980. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract;* irregular: (1) *Paint* and *paint products, in vehicles equipped with mechanical refrigeration,* from Delaware, OH and Oak Creek, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY; and (2) *Chemicals (except in bulk),* from Lake Charles, LA; Akron, Barberton, Cleveland, and Delaware, OH, La Porte, TX, and Natrium, WV, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, under continuing contract(s) with PPG Industries, Inc. of Pittsburgh, PA. Supporting shipper: PPG Industries, Inc., Pittsburgh, PA 15222.

MC 126118 (Sub-5-38TA), filed November 17, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are dealt in and used by manufacturers and distributors of electronics equipment,* between Greeneville and Jefferson City, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Magnavox Consumer Electronics Co., R. H. Coyne, Field Traffic Manager, P.O. Box 479, Greeneville, TN 37743.

MC 128544 (Sub-5-1), filed November 17, 1980. Applicant: IOWA STEEL EXPRESS, INC., 1600 Avenue N.W., P.O. Box 1304, Cedar Rapids, IA 52406. Representative: Richard P. Moore, 2720 First Avenue N.E., P.O. Box 1943, Cedar Rapids, IA 52406. *Iron and steel articles* from Chicago, IL and points within its commercial zone to points in CO. Supporting shippers: Servaloy, Inc., 7290 Samual Drive, Denver, CO 80221; Warrington Company, 2700 Youngfield, Suite 102, Lakewood, CO 80215; Midwest Steel & Iron Works Co., Box 5384, Denver, CO 80217; and Explosives Fabricators, Inc., 1301 Courtesy Road, Louisville, CO 80027.

MC 129908 (Sub-5-37TA), filed November 17, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Oklahoma City, OK 73147. Representative: T. J. Blaylock, P.O. Box 75410, Oklahoma City, OK 73146. *Furniture and fixtures* between GA and NC on the one hand, and on the other Oklahoma City, OK. Supporting shipper: Mathis Bros. Furniture, Inc., 3434 W. Reno, Oklahoma City, OK 73106.

MC 133591 (Sub-5-6TA), filed November 17, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Harry Ross, 58 South Main St.,

Winchester, KY 40391. *Foodstuffs not requiring refrigeration and materials, equipment and supplies used in manufacture, distribution and sale thereof (except commodities in bulk)* between points in the commercial zones of Springfield, MO and Cincinnati, OH. Supporting shipper: Keebler Company, One Hollow Tree Lane, Elmhurst, IL 60126.

MC 134783 (Sub-5-2TA), filed November 17, 1980. Applicant: DIRECT SERVICE, INC., P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Foodstuffs (except in bulk)* from the facilities of Skyland Food Corporation at or near Delta, CO to points in NM, OK, and TX. Supporting shipper: Skyland Food Corporation, 9th & Dodge Streets, Delta, CO 81416.

MC 136786 (Sub-5-39TA), filed November 17, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Blvd., Suite 411, Edina, MN 55435. *Foodstuffs,* between Lee County, IL on the one hand, and, on the other, Mobile County, AL; Maricopa County, AZ; Denver County, CO; Hinds County, MS; Bernalillo County, NM; and points in IA, KS, MD, MA, MO, NJ, NY, and PA. Supporting shipper: Purity Mills, Division of Stokely-Van Camp, Inc., P.O. Box 1083, Indianapolis, IN 46206.

MC 136786 (Sub-5-40TA), filed November 17, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Polyethylene bags, film products, plastic granules, and materials, equipment and supplies used in the manufacture thereof,* between Hennepin County, MN, and Denver County, CO, on the one hand, and, on the other, points in the U.S., Supporting shipper: Poly-Tech Company, a division of U.S. Industries, 1401 W. 94th Street, Minneapolis, MN 55440.

MC 136786 (Sub-5-41TA), filed November 17, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Blvd., Suite 411, Edina, MN 55435. *Newsprint,* between Clatsop County, OR, and Clallam County, WA, on the one hand, and, on the other, Denver County, CO. Supporting shipper: Crown Zellerbach Corporation, 1500 SW First Avenue, Portland, OR, 97201.

MC 138627 (Sub-5-7TA), filed November 17, 1980. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Masonry products,* from points in OH to points in IA. Supporting shipper: Sioux City Brick and Tile Company, P.O. Box 807, 222 Commerce Building, Sioux City, IA 51106.

MC 143701 (Sub-5-6TA), filed November 17, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Foodstuffs* between points and places in the U.S., restricted to traffic originating at or destined to points of suppliers and/or shippers that are customers of Consolidated Marketing, Inc. Supporting shipper: Consolidated Marketing, Inc., 340 Interstate N. Suite 430, Atlanta, GA 30339.

MC 143701 (Sub-5-7TA), filed November 17, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. (1) *Foodstuffs and supplies and materials used in the manufacture thereof; and* (2) *Supplies and materials necessary in the manufacture and distribution thereof,* (1) From the facilities of Rodriguez Festive Foods, Fort Worth, TX, to all points in the U.S.; and (2) From all points in the U.S. to the facilities of Rodriguez Festive Foods, Fort Worth, TX. Supporting shipper(s): Rodriguez Festive Foods, 500 East Central, Fort Worth, TX 76106.

MC 150809 (Sub-5-2TA), filed November 17, 1980. Applicant: CENTURY CONCRETE CO., Highway 38 North, Monticello, IA 52310. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Contract,* Irregular, *cement, dry, in bulk,* from Rock Island, IL, and Buffalo, IA, to Galena, Stockton and Warren, IL, Dubuque and Epworth, IA, under contracts with Flynn Ready Mix Inc., Epworth, IA, and Flynn Ready Mix Concrete Co., Dubuque, IA. Supporting shippers: Flynn Ready Mix Inc., Epworth, IA 52045. Flynn Ready Mix Concrete Co., Dubuque, IA 52001.

MC 151383 (Sub-5-2TA), filed November 17, 1980. Applicant: NICKELL TRUCKING CO., 4901 West 51st St., Tulsa, Oklahoma 74107. Representative: Fred Rahal, Jr., Rahal & Anderson, a professional corporation, Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, Oklahoma 74103. *Contract;* Irregular; *(A) Light poles, traffic signals, electrical substations, and iron and steel articles; (2) materials, equipment and supplies used in the production and distribution of the commodities named in part (1) above* between the facilities of Jem Engineering and Manufacturing Company, Inc. at Tulsa, OK, on the one hand, and, on the other, points in IN, PA, IL, OH, TX, KS, NB, WY, MO, GA, TN, AR, LA, NM, CO, ND, SD, KY, AL, and MS, under continuing contract(s) with Jem Engineering and Manufacturing Company, Inc. *(B) Machinery, pipe, iron and steel articles; (2) materials, equipment and supplies used in the production and distribution of the commodities named in part (1) above* between the facilities of Phennix & Scisson, Inc. at Tulsa, OK, on the one hand, and, on the other, points in CA, AZ, NM, TX, OK, MO, IN, IL, PA, OH, NC, SC, and LA, under continuing contract(s) with Phennix & Scisson, Inc. *(C) Overhead cranes and commodities the transportation of which by reason of size or weight, requires the use of special equipment; (2) materials, equipment and supplies used in the production and distribution of the commodities named in part (1) above* between the facilities of Gaffey, Inc. at Tulsa, OK and Conroe (Houston area) TX, on the one hand, and, on the other, points in MI, OK, TX, LA, MD, WV, PA, OH, IL, IN, and MO, under continuing contract(s) with Gaffey, Inc. Jem Engineering and Manufacturing Company, P.O. Box 9160, 908 W. 41st Street, Tulsa, OK 74102; Phennix & Scisson, Inc., 1401 S. Boulder, Tulsa, OK 74119; Gaffey, Inc., 6951 E. 12th, Tulsa, OK 74112.

MC 152151 (Sub-5-2TA), filed November 17, 1980. Applicant: UNITED PETROLEUM TRANSPORTS, INC., 4312 S. Georgia Place, Oklahoma City, OK 73129. Representative: C. L. Phillips, Room 248, Classen Terrace bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Petroleum and Petroleum Products,* between points in OK, on the one hand, and, on the other, points in KS. Supporting shipper: A La Carte Petroleum Brokers, Inc., 5513 S. Lewis, Tulsa, OK 74105.

MC 152437 (Sub-5-1TA), filed November 17, 1980. Applicant: JAMES F. CHESHIER d.b.a. J & S TRANSFER, 6121 Lydia, Kansas City, MO 64131. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Contract;* Irregular; *Apparel, or other finished textile products or knit apparel, as specified in STCC #23; leather or leather products, as specified in STCC #31, such materials and supplies used in the*

*manufacture, sale and distribution of such products* between points in AR, IA, OK, KS, MO and NE. Supporting shipper: Mode O'Day Company, 3827 Topping, Kansas City, Missouri 64129.

MC 152151 (Sub-5–2TA), filed November 17, 1980. Applicant: UNITED PETROLEUM TRANSPORTS, INC., 4312 S. Georgia Place, Oklahoma City, OK 73129. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Petroleum and Petroleum Products,* between points in OK, on the one hand, and, on the other, points in KS. Supporting shipper: A La Carte Petroleum Brokers, Inc., 5513 S. Lewis, Tulsa, OK 74105.

MC 152444 (Sub-5–2TA), filed November 11, 1980. Applicant: SHARP'S TRUCK & TRACTOR, INC., Business Hwy. No. 36 and 69 West, Cameron, MO 64429. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Anhydrous ammonia, liquid fertilizer and dry fertilizer* from Union County, IA to all points in MO. Supporting shipper: Sur-Gro Plant Food Co., Inc., Plattsburg, MO 64477.

MC 152444 (Sub-5–3TA), filed November 17, 1980. Applicant: SHARP'S TRUCK & TRACTOR, INC., Business Hwy. No. 36 and 69 West, Cameron, MO 64429. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Anhydrous ammonia, liquid fertilizer and dry fertilizer* from Douglas County, KS to points in AR, IA, MO and NE. Supporting shipper: MFA Incorporated, 201 South Seventh Street, Columbia, MO 65201.

MC 152453 (Sub-5–1TA), filed November 17, 1980. Applicant: VERNON A. RAINSBURG d.b.a. BELL SERVICES, INC., 5812 Colorado, Kansas City, MO 64130. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Electrical machinery or equipment and the materials, equipment (rail STCC 36) and supplies used in the installation or removal thereof* between points in Kansas City, MO commercial zone, and points in Andrew, Atchison, Bates, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Jackson, Johnson, Lafayette, Linn, Livingston, Mercer, Nodaway, Pettis, Platte, Ray, Saline, Worth, counties in MO and Johnson, Leavenworth, Douglas, and Shawnee, counties in KS. Supporting shipper: Western Electric Company, Inc., 1111 Woods Mill Rd., Ballwin, MO 63011.

MC 152674 (Sub-5–1TA), filed November 11, 1980. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: David Hunter, (same address as applicant). *Lawn mowers, garden tractors, chain saws, and parts and accessories for the above,* between the State of OK, on the one hand, and on the other, points in the States of: AR, CO, CT, GA, IL, KS, OR, TN, and TX. Supporting shipper: Rasor-West Distributing Co., Inc., P.O. Box 790, Miami, OK 74354.

MC 152675 (Sub-5–1TA), filed November 17, 1980. Applicant: TOM WINGERT, d.b.a. WINGERT ENTERPRISES, Route 2, Box 151, Golden City, MO 64748. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Paper, Paper Products, and Materials and Supplies Utilized in the Manufacture and Distribution of Paper and Paper Products (except in bulk),* between the facilities of International Paper Company at or near Pittsburg, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: International Paper Company, 220 East 42nd Street, New York, NY 10017.

MC 152676 (Sub-5–1TA), filed November 17, 1980. Applicant: BILLY O. HONEYCUTT, d.b.a. HONEYCUTT MOVING & STORAGE, 404 Neal Street, Jacksonville, AR 72076. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Used household goods for the account of the United States Government pursuant to a pack-and-crate service on behalf of the Department of Defense,* between points in Pulaski, Lonoke, Perry, Saline, Garland, Hot Springs, Grant, Jefferson, Arkansas, Prairie, White, Faulkner, Conway, Clebourne, Van Buren, Independence, Stone, Izard, Sharp, Fulton, Baxter, Marion, and Searcy Counties, AR, having a prior or subsequent movement in interstate commerce. Supporting shipper: USAF, Little Rock Air Force Base, Headquarters 314 Tactical Airlift Wing (MAC), Jacksonville, Little Rock Air Force Base, AR 72076.

MC 105566 (Sub-5–17TA), filed December 15, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *Textiles and textile products, and materials, equipment and supplies used in the manufacture and distribution of such products,* between points in the U.S., restricted to the transportation of traffic moving from or to facilities of Union Underwear Company, Inc. of Bowling Green, KY. Supporting shipper: Union Underwear Company, Inc., P.O. Box 780, Bowling Green, KY 42101.

MC 107496 (Sub-5–45TA), filed December 15, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Ink and ink ingredients, in bulk,* between Hickory, NC and Lynchburg, VA. Supporting shipper: Meredith Corporation, 1716 Locust Street, Des Moines, IA.

MC 112713 (Sub-5–24TA), filed December 15, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records, P.O. Box 7270, Shawnee Mission, KS 66207. Common; Regular. *General commodites (except Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment),* serving Hopkinsville, KY, as an off-route point in connection with applicant's otherwise authorized operations. Applicant intends to tack and interline. Supporting shipper: Faultless Division, Bliss & Laughlin Industries, Evansville, IN 47711; Ebonite Corp., Hopkinsville, KY 42204; Thomas Industries, Inc., 1700 Gilbert St., Hopkinsville, KY 42240; Pellon Kentucky Corp., P.O. Box 953, Hopkinsville, KY 42240.

MC 113908 (Sub-5–27TA), filed December 15, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same as applicant) *(Pet food flavorings or enhancers), non-exempt farm products; non-exempt food or kindred products; chemicals or allied products; general commodities (except household goods as defined by the commission and classes A & B explosives)* Between (Waldron), Scott County, AR, on the one hand, and, on the other, (Muscatine), Muscatine County, IA. Supporting shipper: Bioproducts, Inc., P.O. Box 807, Waldron, AR 72958.

MC 114274 (Sub-5–8TA), filed December 15, 1980. Applicant: VITALIS TRUCK LINES, INC., P.O. Box 1703, 137 N.E. 48th St. Pl., Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle St., Suite 3520, Chicago, 60601, Phone 312–332–5106. *Carbonated and Noncarbonated Beverages and Packaging Materials.* From the facilities used by Mid-Continet Bottlers, Inc. at Cedar Rapids and Des Moines, IA., Flint,

MI., Kansas City and St. Louis, MO., and Omaha, NE. to points in IA and SD. Supporting shipper: Mid-Continet Bottlers, Inc., 1679 N.E. 51st Ave., Des Moines, IA 50304.

MC 118142 (Sub-5-6TA), filed December 15, 1980. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 614 Century Plaza Building, Wichita, 67202. *Foodstuffs and such commodities as are dealt in by wholesale and retail food chain and grocery business houses,* between all points in the U.S. Supporting shipper(s): Seabrook Foods, Incorporated, 4974 East Clinton Way, Fresno, CA 93727.

MC 119741 (Sub-5-27TA), filed December 15, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same as applicant). *Mobile home interior furnishings,* from Grand Prairie, TX; Pine Bluff, AR; and Memphis, TN to Newton, KS. Supporting shipper: Spencer Industries, Inc., Southwest Industrial Park, Newton, KS 67114.

MC 119741 (Sub-5-28TA), filed December 15, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same as applicant). *Pretzels* from Reading, PA to Terre Haute, IN. Supporting shipper: The Snacktime Company, Chesty Division, P.O. Box 177, Terre Haute, IN 47808.

MC 124109 (Sub-5-2TA), filed December 15, 1980. Applicant: B.F.C. TRANSPORTATION, INC., P.O. Box 985, Cedar Rapids, IA 52406. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Contract; Irregular. *Materials, equipment and supplies used by processors of grain products and popcorn,* between Wall Lake and Cedar Rapids, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under contract with National Oats Company, Inc. Supporting shipper: National Oats Company, Inc., 1515 H Avenue, N.E., Cedar Rapids, IA 52402.

MC 126822 (Sub-5-39TA), filed December 15, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Building materials and supplies* between Tarrant County, TX on the one hand, and points in the U.S. on the other, restricted to the transportation of shipments to, from, or between the facilities of Overhead Door Company. Supporting shipper: Overhead Door Company, Flush Door Division, 3131 West Bolt Street, Fort Worth, TX 76110.

MC 129908 (Sub-5-39TA), filed December 15, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th St., Oklahoma City, OK 73147. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. *Primary metal products and fabricated metal products* between Payne County, OK on the one hand and on the other points in the states of AL, GA, IL, IN, KY, MI, MS, NC, OH, PA, SC, TN, VA, WI, and WV. Supporting shipper: National Standard Company, Shipping Manager, Stillwater, OK.

MC 134286 (Sub-5-16TA), filed December 15, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Kenneth L. Ackerman (same address as above). *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk).* Between points in the U.S. (except AK and HI). Restricted to (1) transportation originating at or destined to the facilities utilized by either the Northeastern Pennsylvania Shipper's Co-Op Association, Inc., or of its members; (2) to shipments moving on shipper's association bills of lading. Supporting shipper: Northeastern Pennsylvania Shipper's Co-Op Associations, Inc., Nelson Building, W. Eighth Street, West Wyoming, PA 18644.

MC 134755 (Sub-5-14TA), filed December 15, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson, P.O. Box 3772, Springfield, MO 65804. *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 the facilities of Co-Operative Shippers, Inc. and it's members in Philadelphia County, Pa., on the one hand, and points in the U.S. Supporting shipper: Co-Operative Shippers, Inc., 4219 Richmond Street, Philadelphia, PA 19137.

MC 134755 (Sub-5-15TA), filed December 15, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson, P.O. Box 3772, Springfield, MO 65804. *(20) Nonexempt food or kindred products,* between HO, on the one hand, and points in the U.S. on the other. Supporting shipper: Beatrice Frozen Specialties, P.O. Box 180, Archbold, OH 43502.

MC 135283 (Sub-5-8TA), filed December 15, 1980. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stuhr Road, Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Malt beverages (except in bulk)* from Peoria Heights, IL; Milwaukee, WI and St. Paul, MN, and points in their respective commercial zones, to Norfolk and Wayne, NE, and points in their repective commercial zones. Supporting shippers: Wayne Distribution, Inc., Box 494, Wayne, NE 68787 and Jim Pile & Sons Beer Distribution, P.O. Box 1243, Norfolk, NE 68701.

MC 140665 (Sub-5-51TA), filed December 15, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *Foodstuffs, and such commodities as are dealt in by the manufacturers and distributors of foodstuffs,* between Evansville, IN; Mt. Vernon, IN; and Springfield, MO; on the one hand, and, on the other, points in CA, CO, FL, GA, IL, IA, MA, MI, MN, MS, MO, NJ, NY, NC, OR, PA, TN, TX, WA and WI. Supporting shipper: Mid America Dairymen, Inc., P.O. Box 1837-SSS, Springfield, MO 65805.

MC 140665 (Sub-5-52), filed December 15, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *General Commodities (except articles of unusual value, Classes A and B Explosives, Household Goods as defined by the Commission, commodities in bulk, and articles requiring special equipment,* between the facilities of Gateway Shippers Association, Inc. and/or its members at or near Dallas, Tyler, Ft. Worth and Houston, TX, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: Gateway Shippers Association, Inc., 2300 Canton Street, P.O. Box 57087, Dallas, TX 75207.

MC 147388 (Sub-5-6), filed December 15, 1980. Applicant: EARLY BIRD FREIGHT LINES, INC., R.R.1, P.O. Box 49, St. Libory, NE 68872. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *(1) Housewares (except in bulk); and (2) materials, equipment and supplies used in the manufacture, sale and distribution of commodities listed in (1) above (except in bulk),* between the facilities of The Deshler Broom Factory, Inc., at or near Deshler, NE, on the one hand, and, on the other, points in the U.S. Supporting shipper: The Deshler Broom Factory, Inc., P.O. Box 220, Deshler, NE 68340.

MC 147969 (Sub-5-4TA), filed December 15, 1980. Applicant: JOE S. BOWEN, INC., Highway 264 East, P.O. Box 272, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Articles dealt in or used by discount stores or grocery stores,* from all points and places in the United States (except AK and HI) to facilities of Wal-Mart. Supporting shipper: Wal-Mart, Inc., P.O. Box 116, Bentonville, AR 72712.

MC 149026 (Sub-5-16TA), filed December 15, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *Fiberglas products; plastic; insulation and products thereof, and materials, equipment and supplies used in the manufacture, assembly and distribution of items named above,* between San Antonio, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shippers: Pamrod, Inc., P.O. Box 335, McQueeney, TX 78123; Standard Industries, P.O. Box 27500, San Antonio, TX 78227.

MC 149026 (Sub-5-17TA), filed December 15, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *Such commodities as are dealt in or used by wholesale, retail or chain department stores (except in bulk),* (1) between points in AL, AR, IL, KS, KY, LA, MS, MO, OK, TN, and TX, and (2) between points in the United States (except AK and HI) on the one hand, and, on the other, points in (1) above. Supporting shipper: Wal-Mart Stores, Inc., 708 S.W. 8th Street, Bentonville, AR 72712.

MC 149026 (Sub-5-18TA), filed December 15, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *(1) Foodstuffs (except in bulk), (2) such commodities as are dealt in by wholesale, retail and chain grocery and food business houses; and (3) equipment, materials and supplies used in the manufacture and distribution of commodities named in (1) and (2) above (except in bulk),* between San Antonio, Dallas, Laredo, and Houston, TX; Chicago and Dixon, IL; Cincinnati, OH and St. Louis, MO, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shippers: Liberto Specialty Co., 830 So. Presa, San Antonio, TX 72810; Picante, Inc., P.O. Box 12636, San Antonio, TX 78212.

MC 149306 (Sub-5-1TA), filed December 15, 1980. Applicant: JOSEPH C. KOCHANSKI, d.b.a. MIKE'S TRANSFER, 9229 Saddlebrook, St. Louis, MO 63126. Representative: Joseph C. Kochanski, 9229 Saddlebrook, St. Louis, MO 63126. Contract: Irregular. *Hardware and related items,* between a hardware cooperative central warehouse in St. Louis, MO, on the one hand, and, on the other, its dealer-members located in the states of MO, IL, IN, TN, KS, KY, OK, AR, and IA. Supporting shipper: General Mercantile and Hardware, Inc., 3965 Park Ave., St. Louis, MO 63110.

MC 150800 (Sub-5-2TA), filed December 15, 1980. Applicant: BAY'S TEXACO SERVICE & SUPPLY, INC., 116 E. Osage Street, Pacific, MO 63069. Representative: Same as applicant. *Hardboard, Particleboard, and materials and supplies used in manufacturing of Hardboard.* From: All Points in MO. To all Points in: AL, OH, PA, NC, TX, OK, IN, WV, SC, WI, KS, NE, and GA. (Materials and Supplies used in the manufacturing and distribution of one of the above on the return trip.) Supporting shipper: Japco Manufacturing Company, 11534 Adie Road, Maryland Heights, MO 63143.

MC 151118 (Sub-5-7TA), filed December 15, 1980. Applicant: M.D.R. CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. (1) *Gas cooking appliances and equipment, and steel cylinders for storage of air, gas or liquid under pressure, and parts, accessories and fittings therefor;* and (2) *equipment, materials and supplies used in the manufacture, sale assembly and distribution of commodities described in (1) above (except commodities in bulk and those requiring special equipment),* between the facilities of Arkla Industries, Inc., Paragould, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Arkla Industries, Inc., Paragould, AR 72450.

MC 152674 (Sub-5-3TA), filed December 15, 1980. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: David Hunter (same address as applicant). *Automobile parts and accessories, new and used; scrap iron and steel; and machinery,* between the states of OH and OK, on the one hand, and, on the other, points in the U.S. (except AK, OH, OK and HI). Supporting shipper: SAJAC Company, Inc., Route 2, Box 176-1, Miami, OK 74354.

MC 152685 (Sub-5-1TA), filed December 15, 1980. Applicant: SHOW-ME AGRI COMMODITIES, INC., Washington & Ohio Sts., Clinton, MO 64735. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Fertilizer, feed, feed ingredients, seed and such commodities as are dealt in by companies manufacturing and distributing animal feed,* between points in the states of MO, AR, OK, KY, TN, TX, KS, NE, IA, and IL. Supporting shippers: L&N Feed Mill, Green Forest, AR 72638; Quinton Feeds, Rt. 1, Prairie Grove, AR 72753; and Sloan Seed Co., P.O. Box 12, Windsor, MO.

MC 153163 (Sub-5-1TA), filed December 15, 1980. Applicant: HOWARD DAVID SCROGGINS, Rt. 4, Box 158-A, Joplin, MO 64801. Representative: Same as applicant. *Passengers and their baggage in special and charter operations in round trip pleasure tours,* beginning and ending at points in Jasper County, MO; Ottawa, Rogers, Wagoner, Tulsa, Creek, Osage, and Garfield Counties in OK. Supporting shippers: There are 24.

MC 200 (Sub-5-74TA), filed December 17, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). *General commodities (except household goods as defined by the Commission, and classes A and B explosives),* between Sangamon County, IL on the one hand, and, on the other, points in the U.S. Supporting shipper: Borden Chemical Division of Borden, Inc., 180 E. Broad St., Columbus, OH 43215.

MC 106398 (Sub-5-52TA), filed December 16, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Wood and wood products, Metal and metal products, Plastic and plastic products, Stone and stone products, Glass and glass products.* Between points in Iredell County, NC and Sussex County, VA, on the one hand, and, on the other, all points in the U.S. (except AK and HI). Supporting shipper: Kewaunee Scientific Equipment Corporation, P.O. Box 5400, Statesville, NC 28677.

MC 106398 (Sub-5-53TA), filed December 16, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, Director of Traffic (same address as applicant). *Lumber and Lumber Mill Products.* Between points in OK, AR, MS, AL, GA,

SC, SD, MN, IA, MO, WI, IL, MI, OH, KY, IN, PA, MD, NJ and MA. Supporting shipper: Schlaberg Lumber Company, 1830 North Grant River, Lansing, MI 48901.

MC 107678 (Sub-5–3TA), filed December 16, 1980. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Edward D. Brown, P.O. Box 9698, Houston, TX 77015. (1) *Glass,* from the facilities of Guardian Industries Corp. at or near Corsicana, TX to points in the U.S., including AK and HI and (2) *Sand, used in the manufacture of commodities in (1) above,* from points in the U.S. including AK but excluding HI to the facilities of Guardian Industries Corp. at or near Corsicana, TX. Supporting shipper: Guardian Industries Corp., P.O. Box 10001, Corsicana, TX.

MC 111231 (Sub-5–18), filed December 17, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: James H. Berry (same address as applicant). *Iron and Steel Articles and material, equipment and supplies used in connection with the manufacture and distribution of Iron and Steel Articles.* Between Hempstead County, AR on the one hand, and, on the other, points in the U.S., except AK and HI. Supporting shipper: Tex Ark Joist Co., Hope, AR.

MC 111401 (Sub-5–25TA), filed December 17, 1980. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same address as applicant). *Vegetable oils,* in bulk, in tank vehicles, from Oklahoma City, OK to Houston, TX, in foreign commerce only. Supporting shipper: Alimenta, USA, Inc., P.O. Box 88987, Atlanta, GA 30338.

MC 118224 (Sub-5–1TA), filed December 15, 1980. Applicant: STANDARD FRUIT AND VEGETABLE, INC., 2111 Taylor St., Dallas, TX 75201. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Corrugated sheeting and wax,* from Lake Charles, W. Monroe, and Lafayette, LA, to McAllen, TX. Supporting shipper: Fox Supply, Inc., P.O. Box 2288, McAllen, TX 78501.

MC 119789 (Sub-5–39TA), filed December 16, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). (1) *Medicines, Toilet Preparations and Cosmetics, and (2) Materials, Equipment and supplies used in the manufacture and distribution of Medicines, Toilet preparations and Cosmetics,* between Dallas, TX; Lawton, OK; and their respective Commercial Zones, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Sasco Cosmetics, Inc.; 8700 Stemmons Freeway, Suite 425, Dallas, TX 75247.

MC 134755 (Sub-5–16TA), filed December 17, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson, P.O. Box 3772, Springfield, MO 65804. *Nonexempt food and kindred products,* from Solano County, CA, to the states of CO, NM, OK, and TX, including, but not limited to Denver and Grand Junction, CO; Albuquerque and Las Cruces, NM; Tulsa and Oklahoma City, OK; Dallas, Houston, Lubbock, and San Antonio, TX. Supporting shipper: American Home Foods Division, American Home Products Corporation, 685 Third Avenue, New York, NY 10017.

MC 141914 (Sub-5–18TA), filed December 16, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). *General commodities (except articles of unusual value, Class A & B explosives, Household goods as defined by the commission, commodities in bulk and those requiring special equipment* between Evansville, IN; Springfield, MO; Mt. Vernon, IN, on the one hand, and, on the other, points in the US (Except AK & HI) restricted to traffic originating at or destined to the facilities of Mead Johnson Corporation. Supporting shipper: Mead Johnson, 2404 Pennsylvania Avenue, Evansville, IN 47721.

MC 147536 (Sub-5–8TA), filed December 16, 1980. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton, P.O. Box 1567, Joplin, MO 64801 (same address as applicant). *Foodstuffs, Materials, Equipment and Supplies used in the manufacture and distribution of foodstuffs,* between Jasper County, MO, on the one hand, and, on the other, points in the U.S. Supporting shipper: Mid-America Farms, Inc., P.O. Box 1837—SSS, Springfield, MO 65805.

MC 149026 (Sub-5–19TA), filed December 17, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *Building materials, lumber, wood products and materials, equipment and supplies,* between San Antonio and Austin, TX, and Lebanon, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Steves Sash and Door Company, P.O. Drawer S, San Antonio, TX; Howard Systems Corporation, P.O. Box 6308, Austin, TX 78762.

MC 150783 (Sub-5–25TA), filed December 16, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as above). *Foodstuffs and kindred products (except in bulk).* From Sulphur Springs, TX to points in AR, CO, KS, LA, MO, MS, MN, OK, and TN. Supporting shipper: Ocean Spray Cranberry, Water Street, Plymouth, MA 02360.

MC 150783 (Sub-5–26TA), filed December 16, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as above). *1. Fully baked frozen bread, 2. Fully baked refrigerated bread, and 3. Supplies used in a bakery.* Between the facilities of Iversen Baking Co., Rogers, AR, on the one hand, and, on the other, points in the United States. Restricted to the traffic of Iversen Baking Co. Supporting shipper: Iversen Baking Company, 1510 W. Easy, Rogers, AR 72756.

MC 150812 (Sub-5–4TA), filed December 16, 1980. Applicant: FROST TRANSPORTATION, INC., P.O. Box 3400, Shreveport, LA 71103. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Contract;* irregular; *pulpboard and corrugated boxes,* from Springhill and Shreveport, LA, to AR, MS, TX and AL. Supporting shipper: International Paper Co., P.O. Box 160707, Mobile, AL 36616.

MC 152959 (Sub-5–3TA), filed December 16, 1980. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, 6000 Gum Springs Road, Longview, TX 75607. Representative: Robert Nieman (same address as applicant). *Contract;* irregular. *Modular homes, recreational vehicles, mobile homes, park model mobile homes and all related component parts thereof,* between the facilities of Hairgrove Industries, Inc., SunVilla Homes Division, on the one hand, and all points in the continental U.S., on the other hand. Supporting shipper: Hairgrove Industries, Inc., SunVilla Homes Division, 1609 Industrial Avenue, Henderson, TX 75652.

MC 153138 (Sub-5–1TA), filed December 16, 1980. Applicant: EASLEY TRUCKING, P.O. Box 103, Ben Wheeler, TX 75754. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Cast iron and plastic pipe, fittings and neophrene gaskets;* between Tyler

Pipe Industries, Inc., located at or near Swan, TX, to points in the states of CA and NV. Supporting shipper: Tyler Pipe Industries, Inc., P.O. Box 2027, Tyler, TX 75510.

MC 200 (Sub-5-71TA), filed December 15, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). *General commodities (except household goods as defined by the Commission, and classes A & B explosives)*, between Chicago, IL, on the one hand, and, on the other, points in the U.S. Restricted to traffic originating at or destined to facilities used by Tootsie Roll Industries, Inc., its affiliates, suppliers, or vendors. Supporting shipper: Tootsie Roll Industries, Inc., 7401 S. Cicero Ave., Chicago, IL 60629.

MC 200 (Sub-5-72TA), filed December 15, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). *(1) Battery Cases or Containers, batteries, & (2) Materials, Supplies, and equipment used in the manufacture, sale, or distribution of commodities in (1) above*, between Texarkana, AR, and St. Joseph, MO. Supporting shipper: Globe Battery Division Johnson Controls, 4722 Pear St., St. Joseph, MO 64503.

MC 200 (Sub-5-73TA), filed December 15, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). *Common*, regular. *General commodities (except household goods as defined by the Commission, and classes A & B explosives)*, serving Washington, MO as an off route point in connection with applicants otherwise authorized operations. Applicant intends to tack. Supporting shipper: Hazel, Inc., 1200 S. Stafford, Washington, MO. 63090.

MC 29910 (Sub-5-71TA), filed December 15, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). Common, regular. *General commodities (except those in unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, serving Magnolia, AR as an off-route point in connection with applicant's otherwise authorized regular route operations at El Dorado, AR. Supporting shippers: There are 6 supporting shippers. Applicant intends to tack and interline.

MC 29910 (Sub-5-72TA), filed December 15, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). Common, regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, serving Macon, MS as an off-route point in connection with carrier's otherwise authorized regular route operations. Supporting shipper: California Manufacturing Company, 2270 Weldon Parkway, St. Louis, MO 63141. Applicant intends to tack and interline.

MC 29910 (Sub-5-73TA), filed December 15, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). Common, regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, serving Haynesville, LA as an off-route point in connection with applicant's otherwise authorized regular route operations at El Dorado, AR. Supporting shippers: Edmont, Division of Becton Dickinson & Co., Rt. 1, Box E-W, Haynesville, LA 71038; Taylor Brothers Inc., Haynesville, LA; W. E. Browning & Sons, 128 E. Main Street, Haynesville, LA. Applicant intends to tack and interline.

MC 29910 (Sub-5-74TA), filed December 19, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). Common, regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, serving Canon City, CO as an off-route point in connection with applicant's existing authorized regular route operations at Pueblo, CO. Applicant intends to tack and interline. Supporting shippers: Sentry Siren, P.O. Box 386, Canon City, CO 81212; Surplus Sales & Ace Hardware, 150 Greydene Avenue, Canon City, CO 81212; DFC Ceramics, Inc., P.O. Box 110, Canon City, CO 81212; Canon City Rainbow Stone Co., P.O. Box 808, Canon City, CO 81212.

MC 107496 (Sub-5-46TA), filed December 18, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Animal fat, in bulk*, between points in ND, SD, MT, ID, WA, UT, MN, IA, NE, IL, WI, and WY. Supporting shipper: Agri Trading Corporation, P.O. Box 457, Hutchinson, MN 55350.

MC 119789 (Sub-5-40TA), filed December 18, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Valves* from Fairfield, CT to Houston, TX. Supporting shipper: Jenkins Valve Company, 510 Main Street, Bridgeport, CT.

MC 121805 (Sub-5-2TA), filed December 19, 1980. Applicant: ARKANSAS EXPRESS, INC., 1200 Arkansas Avenue, North Little Rock, AR 72114. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. *General commodities, except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment:* (1) Between Strong, AR and Texarkana, TX, serving no intermediate points, and serving Texarkana, TX as a point of interline and interchange only: From Strong over US Hwy 82 to Texarkana and return over the same route; (2) Between Gum Springs, AR and Texarkana, TX, serving no intermediate points and serving Texarkana, TX as a point of interline and interchange only; from Gum Springs over US Hwy 67 and I-30 to Texarkana and return over the same route. Supporting shippers: Fifteen. Applicant intends to tack and interline.

MC 124236 (Sub-5-13TA), filed December 18, 1980. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 N. Central Expressway, Dallas, TX 75205. Representative: Rodney D. Cokendolpher (same as applicant). *Cement* from Comal and Harris Counties, TX, to Ports of Entry on the International Boundary Line between the U.S. and the Republic of Mexico at or near Hidalgo, TX. Supporting shipper: General Portland Inc., P.O. Box 324, Dallas, TX 75221.

MC 126045 (Sub-5-5TA), filed December 18, 1980. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, 1010 South Farragut Street, (P.O. Box 3122), Davenport, IA 52808. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Cast iron products, and materials, equipment and supplies*

*used in the manufacture of cast iron products*, between Pottawattomie County, IA, on the one hand, and, on the other, IL, IN, KS, KY, MI, MN, MO, NE, ND, SD, and WI. Supporting shipper: Griffin Pipe Products Co., 2000 Spring Road, Oak Brook, IL 60521.

MC 126822 (Sub-5-40TA), filed December 18, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Foodstuffs* between points in the U.S., restricted to the transportation of shipments from, to, between or in behalf of Mercantum Corporation. Supporting shipper: Mercantum Corporation, 225 Broadway, New York, NY 10007.

MC 126822 (Sub-5-41TA), filed December 19, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Foodstuffs* from points in CA to points in the U.S., restricted to shipments from, to, or between the facilities of Cal Growers Corporation. Supporting shipper: Cal Growers Corporation, P.O. Box 7084, Stockton, CA 95207.

MC 135762 (Sub-5-6TA), filed December 18, 1980. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, 6004 Highway 271 South, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. *Contract;* irregular. *Commodities dealt in by manufacturers of steel wire products* (except commodities in bulk), between points in the U.S. (except AK and HI) under a continuing contract with Bekaert Steel Wire Corp. Supporting shipper: Bekaert Steel Wire Corporation, P.O. Box G, Rome, GA 30161.

MC 135797 (Sub-5-91TA), filed December 19, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (same address as applicant). *Plastic articles*, between the facilities of Union Carbide Corporation on the one hand, and, on the other points in the U.S. (except AK and HI). Supporting shipper: Union Carbide Corporation, 270 Park Avenue, New York, NY 10017.

MC 139457 (Sub-5-4TA), filed December 18, 1980. Applicant: G. L. SKIDMORE d.b.a. JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Contract; Irregular. *Canned Foodstuffs*, from the facilities of Owatonna Canning Company at or near Owatonna, MN, to points in OK. Supporting shipper: Owatonna Canning Company, P.O. Box 447, Owatonna, MN 55060.

MC 142508 (Sub-5-44TA), filed December 18, 1980. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Meat, meat and sausage products, by-products, and materials, equipment, and supplies used in the manufacture, sale, and distribution thereof* between the facilities of Midland Meat Processors, Inc., at Holton, KS and Lees Summit, MO and points in the U.S. (except AK and HI). Supporting shipper: Midland Meat Processors, Inc., 622 West 3rd, Lees Summit, MO 64063.

MC 145150 (Sub-5-7TA), filed December 19, 1980. Applicant: HAYNES TRANSPORT CO. INC., P.O. Box 9, R.R. 2, Salina, KS. 67401.Representative: Clyde N Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS. 66612. *Fertilizer;* From Moore County, TX to point in UT. Supporting shipper: Phillips Petroleum Co., 7B-4 Adams Bldg., Bartlesville, OK 74004.

MC 147196 (Sub-5-17TA), filed December 19, 1980. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 50262, New Orleans, LA. 70150. Representative: Donald A. Larousse, P.O. Box 50262, New Orleans, LA. 70150. Contract: Irregular. *General Commodities*, between Orleans Parish, LA., on the one hand and, on the other, the 48 States, under a continuing contract or contracts with The Irwin Brown Company, New Orleans, LA. Supporting shipper: The Irwin Brown Company, 212 Chartres Street, New Orleans, Louisiana 70130.

MC 148510 (Sub-5-1TA), filed December 19, 1980. Applicant: THOMPSON TRUCK SERVICE, INC., 4714 Primm Street, St. Louis, MO 63116. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Contract*, irregular. *Such Commodities as are dealt in by retail department stores*, between Vandalia, IL on the one hand, to points and places in IN and KY on the other. Supporting shipper: P. N. Hirsch & Co. Stores, Inc., 2001 Walton Road, St. Louis, MO 63114.

MC 149144 (Sub-5-1TA), filed December 19, 1980. Applicant: SCHIERDING TRUCKING CO., 3690 W. Clay, St. Charles, MO 63301. Representative: James E. Schierding, (same address as applicant). *Malt beverages, in containers*, from Minneapolis, MN and LaCrosse, WI, to St. Charles, MO. Supporting shipper: Griesedieck Beverage Co., 3003 Highway 94 North, St. Charles, MO 63301.

MC 151657 (Sub-5-7TA), filed December 18, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Box 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, 226 North Phillips Avenue, Sioux Falls, SD 57101. *Contract;* irregular. *General Commodities (except in bulk, household goods, Classes A and B explosives, and iron and steel articles)*, From Chicago, IL, and its commercial zones, on the one hand, and on the other, points in TX, OK, WA, OR, CA, AZ, FL, GA, TN, CO, MS, LA, NC and UT under contract with International Nu-Way Shippers, Inc. of Chicago, IL. Supporting shipper: International Nu-Way Shippers, Inc., 3333 South Iron Street, Chicago, IL 60608.

MC 153235 (Sub-5-1TA), filed December 18, 1980. Applicant: SNOWLINE, LaVerne W. Snowden and William M. Snowden d.b.a., 8107 Greenhollow Lane, Dallas, TX 75240. Representative: LaVerne W. Snowden (same address as applicant). *Drugs, toilet preps, cleaning compounds, milk foods, deodorants, disinfectants, brooms, mops, and electrical appliances*, between Dallas, TX on the one hand, and, on the other, Shreveport, LA, Monroe, LA, Alexandria, LA, New Orleans, LA, Baton Rouge, LA, Broussard, LA, Church Point, LA, and other LA points. Supporting shipper: Bristol Myers Company, Regional Transportation Supervisor, 345 Park Avenue, New York, NY 10022.

MC 153259 (Sub-5-1TA), filed December 19, 1980. Applicant: INLAND MOLASSES COMPANY, American Trust Building, Dubuque, IA 52001. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Molasses, molasses blends, and liquid feed*, from Dubuque, IA, to points in IL, MN, and WI. Supporting shipper: Pacific Molasses Company, One California Street, San Francisco, CA.

MC 153260 (Sub-5-1TA), filed December 19, 1980. Applicant: W. E. TOMLINSON, d.b.a. TOMLINSON OIL, Route 2, Comanche, OK 73529. Representative: G. Timothy Armstong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *Contract; irregular; pumping units, weights and related accessories*, between Duncan, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Cook Machine Company, 3920 S. 13th, Duncan, OK 73533.

MC 134820 (Sub-6-2TA), filed December 15, 1980. Applicant: R. S. ALBRIGHT, INC., 6640 Ellis Ave. S., Seattle, WA 98055. Representative: Jim Pitzer, 15 S. Grady Way—Suite 321,

Renton, WA 98055. *Contract carrier,* irregular routes: *Newsprint, pulp and paper products,* between points on the International Boundary Line between Canada and the U.S. in WA and WA and points in AZ, CA, CO, MN, NV and UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Powell River-Alberni Sales Corporation, 1505 Peoples National Bank Building, Seattle, WA 98171.

MC 152671 (Sub-6–3TA), filed December 12, 1980. Applicant: ALL FREIGHT TRANSPORTATION, INC., P.O. Box 6699, Boise, ID 83707. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Contract carrier,* irregular routes: *frozen potato and vegetable products and frozen fruits* between points in the U.S., except AK and HI, under continuing contract(s) with Idaho Frozen Foods Corporation, for 270 days. Supporting shipper: Idaho Frozen Foods Corporation, P.O. Box 128, Twin Falls, ID 83301.

MC 152485 (Sub-6–1TA), filed December 9, 1980. Applicant: REINVESTMENT, INC. d.b.a. ARIZONA STORAGE RENTAL, INC., P.O. Box 11962, Phoenix, AZ 85031. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Commodities dealt in or used by retail department stores,* from the facilities of Diamonds Division of Dayton Hudson Corp. in Phoenix, AZ to the department store of Diamonds in Las Vegas, NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Diamonds Division of Dayton Hudson Corp., 1616 S. Priest, Tempe, AZ 85281.

MC 153147 (Sub-6–1TA), filed December 12, 1980. Applicant: BAYSIDE WASTE HAULING & TRANSFER CO., INC., 7201 West Marginal Way SW., Seattle, WA 98106. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Scrap Battery Casing Material* from King County, WA to Gilliam County, OR for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Quemetco, Inc., a Division of RSR Corporation, 2700 16th Avenue SW, Seattle, WA 98134. E.P.A. Number WAD041333576.

MC 135680 (Sub-6–2TA), filed December 11, 1980. Applicant: BEVERAGE DISTRIBUTORS, INC., P.O. Box 1180, Yakima, WA 98907. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. *Contract carrier,* irregular routes: *Malt beverages* from Fairfield, Los Angeles and San Francisco, CA to Yakima, WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: R&R Beverage Co., 2809 Fruitvale Blvd., Yakima, WA.

MC 147385 (Sub-6–4TA), filed December 10, 1980. Applicant: D & B TRUCKING, INC., 5315 E. Belmont, Fresno, CA 93727. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. *Auto freight bodies and parts, automobile parts, steel water containers, tool boxes, hand wagons or carts* from Merced, CA to points in AZ, CO, NV, OR, UT and WA for 270 days. Supporting shipper: Stahl Division, 1130 Stuart Dr., Merced, CA 95340.

MC 124679 (Sub-6–37TA), filed December 11, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon (same as applicant). *Furniture* from Statesville, NC, Temple, TX, Adrian, MI, and St. Paul, MN to points in the U.S. for 270 days. Supporting shipper: Prima Corporation, 2152 Melody Ann Way, Salt Lake City, UT.

Note.—Applicant holds motor contract carrier authority in number MC 128813 and sub numbers thereunder, therefore dual operations may be involved. An underlying ETA was granted, restricted to traffic for Prima, on 12–5–80.

MC 99946 (Sub-6–1TA), filed December 12, 1980. Applicant: FOOTHILLS EXPRESS, INC., 2510 Evergreen Avenue, West Sacramento, CA 95691. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *General commodities* (except items of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between points in Shasta, Butte, Plumas, Glenn, Colusa, Sutter, Yuba, Sierra, Nevada, Placer, Eldorado, Amador, Calaveras, Alpine, Tuloumne, Merced, Stanislaus, San Joaquin, Sacramento, Yolo, Napa, Tehama, San Mateo, Solano, Marin, Contra Costa, Alameda, San Francisco, and Santa Clara Counties, CA, on the one hand, and on the other, points in Washoe, Douglas, Storey and Carson City Counties, NV, and Sierra, Eldorado, Placer and Nevada Counties, CA, for 270 days. Restricted to traffic moving in interstate or foreign commerce. Supporting shipper(s): There are 17 shippers. Their statements may be examined at the Regional Office listed.

Note.—Applicant requests that the authority granted may be joined with other authorities held by other carriers.

MC 263 (Sub-6–4TA), filed December 15, 1980. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID 83201. Representative: Wayne S. Green (same address as applicant). *Contract carrier,* irregular routes: *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 or contracts with the Port of Seattle, for 270 days. Supporting shipper: Port of Seattle, P.O. Box 1209, Seattle, WA 98111.

MC 1515 (Sub-6–10TA), filed December 12, 1980. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant). *Common carrier,* (1) regular route, *passengers and their baggage and express and newspapers,* in the same vehicle with passengers, (a) Between Pensacola, FL and Panama City, FL: from Pensacola, FL over U.S. Hwy 98 to Panama City, FL and return over the same route serving all intermediate points, (b) Between junction of U.S. Hwy 231 and FL Hwy 20 and Tallahassee, FL: from the junction of U.S. Hwy 231 and FL Hwy 20 over FL Hwy 20 to Tallahassee, FL and return over the same route, serving all intermediate points; (2) irregular route, *passengers and their baggage,* in the same vehicle with passengers in Charter operations; from all points and places described in (1) above to all points in the U.S., for 180 days. An underlying ETA seeks 90 days authority has been filed. Supporting shipper: There are 26 shippers. Their statements may be examined at the Regional Office listed. Applicant intends to tack with existing authority.

MC 150756 (Sub-6–3TA), filed December 11, 1980. Applicant: GUTHMILLER TRUCKING, INC., P.O. Box 206 (30700 Dyer Street), Union City, CA 94587. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. *Empty metal cans and can ends, and return movement of pallets, skid sheets, frames and related articles.* From Carson and Vernon, CA to the international border near Calexico, CA for beyond movement into Mexicali, Mexico, for 270 days. Supporting shipper: Gencan, Inc., 2141 E. 21st St., Los Angeles, CA 90058.

MC 106194 (Sub-6–2TA), filed December 12, 1980. Applicant: HORN TRANSPORTATION, INC., P.O. Box 1172, Pueblo, CO 81002. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Scrap metal; crushed cars,* between points in CO, KS, NE, MN, OK, SD, TX and WY, for 270 days. An underlying ETA seeks 120 days. Supporting shipper:

Century Enterprises, 123 Cook, Denver, CO 80206.

MC 106194 (Sub-6-3TA), filed December 12, 1980. Applicant: HORN TRANSPORTATION, INC., P.O. Box 1172, Pueblo, CO 81002. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. (1) *Insulation and roofing materials*, and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above*, between Jackson County, MO, on the one hand, and, on the other, points in the U.S. in and west of MN, IA, MO, AR and LA, for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Derbigum America Corporation, 4821 Chelsea, Kansas City, MO 64130.

MC 148077 (Sub-6-2TA), filed December 10, 1980. Applicant: JAMES L. KAMPSTRA d.b.a. KAMPSTRA TRUCKING, 1720 Ferry St., Albany, OR 97321. Representative: James L. Kampstra (same as above). *Common carrier*; Regular routes: *General Commodities*, except household goods as defined by the Commission, Class A & B explosives, commodities in bulk and those requiring special equipment, between Portland OR and Eugene, OR and their Commercial Zones via Interstate Hwy 5, for 270 days. Applicant intends to tack authority here applied for to authority held in MC 148077; Applicant proposes to interline at Portland and Eugene, OR. Supporting shipper(s): There are 9 supporting shippers: Their statements may be examined at the Regional office listed.

MC 139356 (Sub-6-1TA), filed December 10, 1980. Applicant: MIDLAND TRANSPORTATION, INC., 145 N. Main St., East Wenatchee, WA 98801. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *General Commodities (except household goods and Classes A and B explosives)*, between points in WA in and east of Okanogan, Chelan, Kittitas, Yakima and Klickitat Counties, WA on the one hand, and, on the other, Portland, OR and Seattle, WA, restricted to traffic having a prior or subsequent movement by water, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Agri-Tainer Corp., P.O. Box 2004, Wenatchee, WA 98801; Columbia Feeders, Inc., 1012 Walla Walla St., Box 2004, Wenatchee, WA 98801; Hanna Mining Co., P.O. Box 361, Wenatchee, WA 98801.

MC 128861 (Sub-6-1TA), filed December 12, 1980. Applicant: OK DELIVERY SYSTEM INC., P.O.B. 4325, Portland, OR 97208. Representative: John A. Anderson, Suite 1600, One Main Pl., 101 SW Main St., Portland, OR 97204. *General commodities* (except commodities in bulk, household goods as defined by the Commission, and classes A and B explosives), (1) between points in Multnomah, Washington and Clackamas Counties, OR, and (2) between points in Multnomah, Washington and Clackamas Counties, OR, on the one hand, and, on the other, points in OR in and west of Hood River, Clackamas, Marion, Linn, Lane, Douglas and Jackson Counties, OR, for 270 days. Authority to tack to applicant's authority in MC-128861 and to interline with other carriers at Portland, OR and its commercial zone, is requested. Supporting shipper: There are 18 shippers. Their statements may be examined at the regional office listed.

MC 140035 (Sub-6-1TA), filed December 9, 1980. Applicant: PAPER TRANSPORTATION SPECIALISTS, INC., 13635 SW Edy Rd., Sherwood, OR 97140. Representative: John A. Anderson, Suite 1600, One Main Pl., Portland, OR 97204. *Paperboard cartons*, from the facilities of Manville Forest Products Corporation in Bakersfield, CA, to points in AZ, NV, WA, MT and OR, for 270 days. Supporting shipper: Manville Forest Products Corporation, POB 488, West Monroe, LA 71291.

MC 127922 (Sub-6-4TA), filed December 11, 1980. Applicant: NELLO PISTORESI & SON, INC., P.O.B. 432, Toppenish, WA 98948. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Meat and packing house products* as defined by the Commission, from points in OR to points in Yakima, WA, for 270 days. Supporting shipper: Worrell Meat Co., Inc., 501 S. 5th Ave., Yakima, WA 98902.

MC 149078 (Sub-6-7TA), filed December 12, 1980. Applicant: ROAD WEST, INC., 1315 E. Holt Blvd., Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Commercial refrigerated wall and floor display cases and refrigeration units* from Huntsville, AL; Louisville, KY; Carlstadt, NJ; and Parsons, TN to points in Los Angeles, Orange, Riverside, San Bernardino and San Diego Counties, CA and Clark County, NV for 270 days. Supporting shipper: Market Engineers, Inc., 12026 E. Florence Ave., Santa Fe Springs, CA 90670.

MC 149078 (Sub-6-8TA), filed December 12, 1980. Applicant: ROAD WEST, INC., 1315 E. Holt Blvd., Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Candy and confectionery, other than hollow mold*, and *edible nuts, in packages and in bulk in barrels* from points in Los Angeles County, CA to points in GA, OH and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Betty Zane Corporation, 600 West Terrace Drive, San Dimas, CA 91773.

MC 148812 (Sub-6-1TA), filed December 12, 1980. Applicant: George Rominger d.b.a. GEORGE ROMINGER TRUCKING, 1331 Cascade Way, Ellensburg, WA 98926. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. *Contract carrier*, irregular routes: *Meat and Meat By-Products as defined by the Commission* from Seattle, Tacoma and Ellensburg, WA to points in CA, for 270 days. Carrier has underlying ETA for 120 days. (GTO Nov. 23). Supporting shipper: Superior Packing Company, P.O. Box 277, Ellensburg, WA 98926.

MC 124692 (Sub-6-26TA), filed December 11, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 40248, Indianapolis, IN 46240. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Paper lumber wrap*, from Chicago, IL to points in CA, ID, OR, and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Laminated Papers Division, The Cromwell Paper Company, East Wacker Dr., Chicago, IL.

MC 142941 (Sub-6-18TA), filed December 15, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: D. W. Sinclair (same address as applicant). *Household appliances and electronic devices* between Los Angeles, CA (and its commercial zone) and Phoenix, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Edwards Distributing, Inc., 310 South 29th Street, Phoenix, AZ.

MC 138875 (Sub-6-34TA), filed December 12, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same address as applicant). *Materals and supplies used in the manufacture and distribution of moble homes, campers and recreational vehicles* (except commodities in bulk), from the facilities of Weiser Products at Weiser, ID to Lindsay and Dinuba, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Weiser Products, Division of Champion Home Builders, P.O. Box 551, Weiser, ID 83672.

MC 138875 (Sub-6-35TA), filed December 12, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell

(same address as applicant). *Bakery products, foodstuffs and pet foods* (except commodities in bulk), from Naperville, Bridge View and Chicago, IL to points in MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Nabisco, Inc., East Hanover, NJ 07936.

MC 138875 (Sub-6–36TA), filed December 12, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same address as applicant). *(1) Alcoholic beverages; and (2) empty containers for (1) when returning to point of origin,* between points in CA, on the one hand, and, on the other, points in ID south of the southern boundary of Idaho County, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Stein Distributing Co., 601 N. Phillippi, Boise, ID 83706.

MC 125561 (Sub-6–3TA), filed December 15, 1980. Applicant: SUNNYSIDE TRANSFER, INC., P.O. Box 526, Sunnyside, WA 98944. Representative: James M. Peterson, 520 Franklin, Richland, WA 99352. *General Commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the commission, commodities in bulk, and commodities, which because of size or weight require special equipment); between Kennewick, WA; and Morrow County, OR, and Umatilla County, OR, for 270 days. Supporting shipper(s): There are 7 shippers. Their statements may be examined at the Regional office listed.

MC 147213 (Sub-6–1TA), filed December 12, 1980. Applicant: T & T TRUCKING, INC., 11603 8th S., Seattle, WA 98183. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Machinery and fabricated and non-fabricated iron and steel and aluminum articles,* between the facilities of Leckenby Co., at Seattle, WA, on the one hand, and points in ID, OR, MT, UT, WY, NV, AZ and CA, on the other hand, for 270 days. Supporting shipper: Leckenby Co., 2745 11th Ave. S.W., Seattle, WA 98134.

MC 146075 (Sub-6–3TA), filed December 11, 1980. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 West 29th. Place, Wheatridge, CO 80214. Representative: Delbert Ewing (same as applicant). *Foodstuffs (except in bulk, in tank vehicles)* between points in AR, CO, ID, LA, NM, OK, TX, UT, and WY, for 270 days. Restricted to shipments origination or destined to the facilities of J. A. Sharoff and Company. Supporting shipper: J. A. Sharoff and Company, 3825 Lafayette St., Denver, CO 80205.

MC 115092 (Sub-6–3TA), filed December 10, 1980. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Dr., St. Charles, IL 60174. *Flat glass* from Tulsa, OK to Salt Lake City, UT and *glass racks* on return, for 270 days. Supporting shipper: AMSCO, 1880 S. 1045 West, Salt Lake City, UT 84125.

MC 126327 (Sub-6–5TA), filed December 12, 1980. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Suite 11, Santa Clara, CA 95050. Representative: Laura M. Robinson (same as applicant). *Plumbing fixtures,* from San Bernardino County, CA, to points in AZ, ID, NV, OR, UT, and WA, for 270 days. Supporting shipper: Colton-Wartsila, Box 887, Colton, CA 92324.

MC 126327 (Sub-6–6TA), filed December 11, 1980. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Suite 11, Santa Clara, CA 95050. Representative: Laura M. Robinson (same as applicant). *Fertilizers, insecticides, farm and garden supplies,* from Salt Lake County, UT, to points in AZ, CA, ID, NV, NM, OR, TX and WA, for 270 days. Supporting shipper: The Pax Co., 580 W. 1300 S., Salt Lake City, UT 84115.

MC 15382 (Sub-6–1TA), filed December 10, 1980. Applicant: TRANS CONTINENTAL TRANSPORT, INC., P.O. Box 7583, Boise, ID 83707. Representative: Paul R. Blomberg (same as applicant). *Recyclable and waste materials,* from points in ID in and south of Idaho County to points in CA, OR and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Western Recycling & Wastepaper Co., Inc., 1900 S. Cole Rd., Boise, ID 83709.

MC 147885 (Sub-6–2TA), filed December 11, 1980. Applicant: MANUEL & AMY VEGA d.b.a. VEGA CONSTRUCTION AND TRUCKING, P.O. Box 1630, Elko, NV 89701. Representative: John R. Ross II, P.O. Box 635, Carson City, NV 89701. *Barite, sand, gravel, ore, aggregates, mining equipment, materials and supplies,* between points in Eklo, Eureka and Lander Counties, NV, for 270 days. Supporting shipper: Chromalloy American Corp., P.O. Box 1003, Elko NV 89801.

MC 139960 (Sub-6–3TA), filed December 11, 1980. Applicant: WPX FREIGHT SYSTEM, INC., 526 Mission Street, San Francisco, CA 94105. Representative: Stephen T. Rudman (same as applicant). *General commodities* (except used household goods and Class A and B explosives) between points in the States of WA, OR, CA, AZ, NV, NM, UT, CO, MT, ID, WY, and TX; restricted to traffic having a prior or subsequent move by rail, for 270 days. Supporting shipper: There are 19 supporting shippers: The statements may be examined at the regional office listed.

MC 152963 (Sub-6–1TA), filed December 2, 1980. Applicant: RAY YOTTY, 1119 128th St. S.W., Everett, WA 98204. Representative: Ray Yotty (same as applicant). (1) *Lumber, shingles, plasterboard and brick,* from Ports of Entry on the International boundary Line between the U.S. and Canada located in WA to all points in WA. (2) *Lumber,* from all points in WA to Ports of Entry on the U.S. Canada International Boundary Line in WA. (3) *Lumber, Plywood, shingles, and plastic pipe,* between all points in WA and all points in OR, MT, and ID for 270 days. Supporting shipper: There are six supporting shippers. Their statements may be examined at the regional office listed.

MC 138875 (Sub-6–37TA), filed December 16, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Frozen foods and potato products* other than frozen (except commodities in bulk), from points in Ada, Canyon, Cassia, and Payette Counties, ID and Malheur County, OR to points in AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ore-Ida Foods, Inc., P.O. Box 10, Boise, Idaho 83707.

MC 153215 (Sub-6–1TA), filed December 17, 1980. Applicant: DON'S REFRIGERATED EXPRESS, LTD., 1168–168th St. R.R. No. 7, White Rock, B.C., Canada V4B 5A8. Representative: Michael D. Duppenthaler, 211 S. Washington, St., Seattle, WA 98104. *Contract carrier,* irregular routes: *Malt beverages and materials, equipment and supplies used in the manufacture and production of malt beverages,* between ports of entry on the international boundary line between the U.S. and Canada located in WA, ID and MT on the one hand, and, on the other, points in WA, OR, AZ, and CA, for the account of Arthur J. Fritz & Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Arthur J. Fritz & Co., P.O. Drawer G, Blaine, WA 98230.

MC 144756 (Sub-6–2TA), filed December 16, 1980. Applicant: DEDICATED TRUCKING CORP., P.O.

Box 1383, Chehalis, WA 98532. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Contract Carrier,* irregular routes: *Such commodities as are dealt in or used by a manufacturer of rubber and rubber products,* between Chehalis, WA, on the one hand, and, on the other, Arlington, TX and points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, under continuing contract(s) with Northwest Rubber Compounders Inc., for 270 days. Supporting shipper: Northwest Rubber Compounders Inc., P.O. Box 746, Chehalis, WA 98532.

MC 153209 (Sub-6–1TA), filed December 16, 1980. Applicant: LEOPOLDO DIAZ VILLANUEVA d.b.a. DIAZ TRUCKING, 1011 Beyer Way, Space 108, San Diego, CA 92154. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract carrier,* irregular routes: *commodities* dealt in or utilized by manufacturers of articles for fishing, shipbuilding, and steel fabrication industries, between Chula Vista, CA, on the one hand, and, on the other, Mobile, AL, Miami, FL, Eugene, OR, Port Arthur, TX, Seattle and Tacoma, WA, and Sturgeon Bay, WI, for the account of Morris Whaley, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Morris Whaley, Inc., 2605 Faivre, Chula Vista, CA 92011.

MC 146585 (Sub-6–2TA), filed December 19, 1980. Applicant: DOUBLE DD TRUCK LINE, INC., P.O. Box 230, Canby, OR 97013. Representative: Jerry R. Woods, Suite 1600, One Main Pl., 101 SW Main St., Portland, OR 97204. *Building materials,* from points in OR and WA to points in CA, AZ, NM, NV, ID, MT, UT, WY, ND, SD, NE, OK, TX, CO, AR, KS, MO, IA, MN, WI, IL, MI and KY, restricted to the transportation of traffic originating at the facilities of or used by Plywood Components, Inc., for 270 days. Supporting shipper: Plywood Components, Inc., 6523 NE Old Salem Road, Albany, OR 97321.

MC 152782 (Sub-6–2TA), filed December 16, 1980. Applicant: EDWARDS FAMILY ENTERPRISES, 1821 E. Diana Ave., Anaheim, CA 92805. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Contract carrier,* irregular routes: (1) *meats, meat products and meat byproducts and articles distributed by meat packinghouses,* and (2) *materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above* between points in CA, on the one hand, and, on the other, points in CO, IA, KS and NE, for 270 days. Supporting shipper: Packers Bar M Meat Company, 4215 Exchange Ave., Los Angeles, CA 90058.

MC 116457 (Sub-6–4TA), filed December 19, 1980. Applicant: GENERAL TRANSPORTATION INCORPORATED, P.O. Box 6484, Phoenix, AZ 85005. Representative: D. Parker Crosby (same as applicant). *Lumber, plywood, wood products and insulation board,* from Polk, Walker, Angelina, Nacogdoches, Hardin and Harris Counties, TX, to AZ and NM for 270 days. Supporting shipper: Sequoia Supply, 1838 N. 23rd Ave., Phoenix, AZ, and Champion International Corporation, Knightsbridge Dr., Hamilton, OH 45020.

MC 151799 (Sub-6–2TA), filed December 18, 1980. Applicant: GLENNMAR, INC., 5500 S.W. 315th, Federal Way, WA 98003. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. *Iron and Steel Articles and Machinery and Equipment used in the processing and manufacture of iron and steel articles,* between Seattle, WA on the one hand, and, on the other, points in CA, ID, MT, NV, OR, UT, WA and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Millsteel Co., 60 S. Hudson, Seattle, WA 98124.

MC 152843 (Sub-6–1TA), filed December 8, 1980. Applicant: GREEN ARROW, INC., Route 7, Box 668, Caldwell, ID 83605. Representative: Mr. Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Contract carrier,* irregular routes: *Fertilizer,* between points in ID, OR, and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Union Seed Company, P.O. Box 339, Nampa, ID 83651.

MC 146580 (Sub-6–1TA), filed December 18, 1980. Applicant: FREIGHT SYSTEMS, INC., 2300 James St., Suite 1E, Bellingham, WA 98225. Representative: Alan P. Sherbrooke, 30th Floor, The Bank of California Center, Seattle, WA 98164. *Contract carrier,* irregular routes: *General commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in (1) King, Benton, and Franklin Counties, WA, (2) OR, and (3) ID, for 270 days. Supporting shipper: Amway Corporation, 7520 South 228th Street, Kent, WA 98031.

MC 146580 (Sub-6–2TA), filed December 18, 1980. Applicant: FREIGHT SYSTEMS, INC., 2300 James St., Suite 1E, Bellingham, WA 98225. Representative: Alan P. Sherbrooke, 30th Floor, The Bank of California Center, Seattle, WA 98164. *Contract carrier,* irregular routes: *General commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in (1) Benton, King, and Franklin Counties, WA, (2) Umatilla County, OR, and (3) ID, for 270 days. Supporting shipper: Northwestern Drug Co., 801 C N.W., Auburn, WA 98002.

MC 139906 (Sub-6–49TA), filed December 18, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O.B. 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O.B. 81849, Lincoln, NE 68501. *Wearing apparel,* from points in AL, NY, MA, MD, PA, VA, NC, SC, FL, GA and TN, to the facilities if K-Mart Apparel Corp., at or near North Bergen, NJ; Alsip, IL; Forest Park, GA, and Carson, CA for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: K-Mart Apparel Corp., 7373 Westside Ave., North Bergen, NJ 07047.

MC 153230 (Sub-6–1TA), filed December 17, 1980. Applicant: HARRY MARVEL TRUCKING, 525 N. E. Halsey, Troutdale, OR 97060. Representative: Harry Marvel (same as applicant). *Contract Carrier,* Irregular routes: *Lumber and Lumber Products* between points in CA, WA and OR, for the account of Bridal Veil Lumber Co., Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Bridal Veil Lumber Co., Inc., P.O. Box 99, Bridal Veil, OR 97010.

MC 133979 (Sub-6–2TA), filed December 15, 1980. Applicant: MONTANA BRANDS PRODUCE, INC., 1507 Beck Street, Salt Lake City, UT 84116. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier,* irregular routes, *flour,* from Great Falls, MT to points in CA and ID for 270 days, under a continuing contract with ConAgra, Inc. of Great Falls, MT. Supporting shipper: ConAgra, Inc., P.O. Box 2548, Great Falls, MT 59403.

MC 34227 (Sub-6–2TA), filed December 15, 1980. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, 15910 E. Colfax, Aurora, CO 80011. Representative: James P. Beck, 717 17th St., Ste. 2600, Denver, CO 80202. *Contract carrier,* irregular routes: *Paper products,* from the facilities of Universal Paper Goods Company at Los Angeles, CA to points in CO, NM, and UT, restricted to a transportation service to be performed under continuing contract(s) with Universal Paper Goods Company, for 270 days. Supporting shipper: Universal Paper Goods Company, 7171 Telegraph Rd., Los Angeles, CA 90040.

MC 134201 (Sub-6–3TA), filed December 16, 1980. Applicant: JIM

PALMER TRUCKING, INC., 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202. *Contract carrier,* irregular routes: *Composition board and accessories and supplies used in the installation thereof* from Newark, OH to points in CO, MN, MT, ND, SD, UT, WI and WY under a continuing contract(s) with Tectum, Inc., for 270 days. Supporting shipper: Tectum, Inc., 105 S. 6th St., Newark, OH 43055.

MC 142122 (Sub-6–2TA), filed December 18, 1980. Applicant: PASCUZZO AND HONEYMAN TRUCKING, INC., 5127 Maywood Ave., Maywood, CA 90270. Representative: Peter Sowa (same address as applicant). *Contract carrier,* irregular routes: *Such commodities as are dealt in or used by grocery and food business houses (except commodities, in bulk),* from points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY to points and places in CA, for 270 days. Supporting shipper: Vons Grocery Co., 10150 Lower Azusa Rd., El Monte, CA.

MC 152821 (Sub-6–1TA), filed December 19, 1980. Applicant: PATHFINDER LINES, INC., P.O.B. 4022, South Edmonton, Canada T6E–4S8. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264. *Machinery, equipment materials, and supplies used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products,* between points on the International Border between Canada and the U.S., on the one hand, and, on the other, points in the U.S. located in and west of ND, SD, NE, KS, OK, and TX for 270 days. Supporting shipper: There are seven shippers. Their statements may be examined at the Regional office listed.

MC 148944 (Sub-6–1TA), filed December 19, 1980. Applicant: REDDING LUMBER TRANSPORT, INC., 4161 Eastside Rd., Redding, CA 96001. Representative: Jim Pitzer, 15 S. Grady Way—Suite 321, Renton, WA 98055. *Contract carrier,* irregular: *Lumber and Wood Products* from Anderson, CA, to OR, WA, NV, UT, and CO; from points in WA, UT, and CO to Anderson, CA, for the account of Nikkel Moulding, for 270 days. Supporting shipper: Nikkel Moulding, Route 1, Box 1275, Anderson, CA 96007.

MC 142941 (Sub-6–19TA), filed December 12, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same address as applicant). *Alcoholic beverages* (except in bulk) between Detroit, MI, Lawrenceburg, IN, and Louisville, KY, and points in UT, for 270 days. Supporting shipper: Joseph E. Seagram & Sons, Inc., 800 Third Avenue, New York, NY 10022.

MC 148737 (Sub-6–9TA), filed December 16, 1980. Applicant: SUNSET EXPRESS CORP., P.O. Box 27043, Salt Lake City, UT 84125, Representative: Carl I. Sundeaus (same address as applicant). *Chemicals* (except in bulk) from CT, MA, NJ, NY, PA and VA to AZ, CA, IL, IN, OR, TN, TX and WA, for 270 days. Supporting shipper: Brown's Feed and Chemicals, 404 So. 5th, Carmi, IL 62821.

MC 136818 (Sub-6–24TA), filed December 16, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood Rd., Phoenix, AZ 85041. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008. *General commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), from the facilities of LAWI–CSA Consolidators, Inc., Los Angeles, CA, to points in AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: LAWI–CSA Consolidators, Inc., 5610 S. Soto St., Huntington Park, CA 90255.

MC 146075 (Sub-6–4TA), filed December 11, 1980. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 West 29th Pl., Wheatridge, CO 80214. Representative: Delbert Ewing, 6161 West 29th Pl., Wheatridge, CO 80214. *Sewage treatment systems, and parts and accessories used in sewage treatment systems [except in bulk, in tank vehicles].* Between points in CO and TX, for 270 days. Supporting shipper: England Systems of Denver, 5611 Kendall Ct., Arvada, CO 80002.

MC 138299 (Sub-6–5TA), filed December 16, 1980. Applicant: TRAILS TRUCKING INC., 1825 De La Cruz Blvd., Suite 11, Santa Clara, CA 95050. Representative: Laura M. Robinson (same address as applicant). *Contract carrier,* irregular routes: *Air conditioning duct,* from Bakersfield, CA, to points in ID, NV, OR and WA, under continuing contract(s) with Owens-Corning Fiberglas Corporation, of Toledo, OH, for 270 days. Supporting shipper: Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43659.

MC 58035 (Sub-6–5TA), filed December 19, 1980. Applicant: TRANS-WESTERN EXPRESS, LTD., 5231 Monroe St., Denver, CO 80216. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring the use of special equipment); between the facilities of Consolidated Freightways at or near Cheyenne, WY, on the one hand, and, on the other, points in Adams, Larimer and Weld Counties, CO, with the right to join such authority with other authority held by applicant or any other carrier; for 270 days. Supporting shipper: There are five supporting shippers. Their statements may be examined at the regional office listed. An underlying ETA seeks 120 days authority.

MC 111434 (Sub-6–4TA), filed December 12, 1980. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Representative: Steven E. Napper, 718 17th St., Suite 1700, Denver, CO 80202. (1) *Liquid concrete admixtures,* in bulk, from points in Seattle, WA to points in CA, OR, NV, ID, UT, WY and MT, for 270 days. Supporting shipper: Master Builders, Division of Martin Marietta Corp., 23700 Chagrin Blvd., Cleveland, OH 44122.

MC 151611 (Sub-6–5 TA), filed December 16, 1980. Applicant: WAYFARE TRUCKING, INC., 725 Industrial Wy., Port Hueneme, CA 93041. Representative: Ronald C. Chauvel, 100 Pine St., No. 2550, San Francisco, CA 94111. *Contract carrier;* Irregular routes: *Foundry Supplies,* between Wedrum, IL, and Cleveland, OH, on the one hand, and, on the other, Carson, CA, under continuing contract(s) with C. E. Cast Industrial Products, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: C. E. Cast Industrial Products, 2040 E. 220th, Long Beach, CA 90810.

MC 152550 (Sub-6–1 TA), filed December 18, 1980. Applicant: WICK'S AIR FREIGHT, INC., 17609 11th Avenue SE, Arlington, WA 98223. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. *General commodities* (except Classes A&B explosives, commodities in bulk, articles of unusual value and household goods), between the international airports at Portland, OR, and Seattle-Tacoma, WA, and ports of entry on the international boundary line between the United States and Canada at or near Blaine and Sumas, WA, for shipments moving to or from the international airport at Vancouver, BC, Canada, and restricted to traffic having a prior or subsequent movement by air for 270

days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 7 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 71652 (Sub-6–5 TA), filed December 22, 1980. Applicant: BYRNE TRUCKING, INC., P.O. Box 280, Medford, OR 97501. Representative: David J. Stewart (same address as applicant). *Aluminum ingots, billets, and pig* from The Dalles, OR, to points in CA for 270 days. Supporting shipper: Elixir Industries, 17809 S. Broadway, Gardena, CA 90248.

MC 150707 (Sub-6–2 TA), filed December 22, 1980. Applicant: CASPER MOBILE HOME SALES, INC., 3591 Florida Dr., Loveland, CO 80537. Representative: Richard J. Bara, Steele Park, Suite 330, 50 South Steele St., Denver, CO 80209. (1) *Factory built housing sections*, mounted on wheeled undercarriages or readily adaptable to being mounted on wheeled undercarriages, and (2) *Undercarriages* for factory built housing sections, Between the facilities of Mid Plains Housing, Inc., at North Platte, NE; Heritage Homes, Inc., at Wayne, NE; Guerdon Industries, Inc., at Gering, NE; Stylhomes, Inc., at Riverton, WY; and Mitchell & Sons, Inc., at Commerce City, CO, on the one hand, and, on the other, points in CO, NE and WY, for 270 days. Restricted to traffic originating at or destined to the named facilities. Supporting shipper: Cloverdale Custom Homes, 1137 South Huron, Denver, CO 80223.

MC 115523 (Sub-6–9 TA), filed December 22, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 No. Beck Street, Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same address as applicant). *Magnesium Chloride Brine*, from Kaiser Chemical Plant near Wendover, UT, to the Holly Sugar Corp. plant at Hereford, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Holly Sugar Co., Colorado Springs, CO 80901.

MC 136605 (Sub-6–23TA), filed December 22, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8129, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). *Cast iron pressure pipe, fittings, valves and accessories*, from Union City, CA, to points in the states of ND, SD, MT, CO, for 270 days. Supporting shipper: U.S. Pipe & Foundry Company, 1295 Whipple Rd., Union City, CA.

MC 149364 (Sub-6–7TA), filed December 22, 1980. Applicant: DOUDELL TRUCKING CO., 555 E. Capital Ave., San Jose, CA 95106. Representative: Ronald C. Chauvel, 100 Pine St., No. 2550, San Francisco, CA 94111. *Contract carrier;* irregular routes: *fertilizer, bagged and palletized,* between Phoenix, AZ, and Las Vegas, NV, under continuing contracts with Lawn & Garden Supply Company for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lawn and Garden Supply Co., 2222 No. 27th Ave., Phoenix, AZ 85009.

MC 153282 (Sub-6–1TA), filed December 22, 1980. Applicant: FINLEY TANK TRUCKING, INC., Route 1, Parma, ID 83660. Representative: Jack Finley (same address as applicant). *Feed ingredients, salts, brines, and fertilizers,* in bulk, between points in ID, WA, OR, NV, UT, and MT. Restricted to: Traffic originating at or destined to, the facilities of the Amalgamated Sugar Company at Nyssa, OR, Nampa, Twin Falls, and Paul, ID, or Union Oil Company of California, d.b.a. Union Chemical, Feed Service, and Northwest PMS. With plant facilities in: Caldwell, Bruneau, Roberts, ID, Moses Lake, WA, Umatilla, Nyssa, Lakeview, OR, Winnemucca, NV, Garland, UT, and Choteau, MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Union Oil Company of California, Union Chemical Division, d.b.a. Union Chemical Feed Service, and Northwest PMS, P.O. Box 482, Caldwell, ID 83605; Ph. 208–459–4601.

MC 125952 (Sub-6–9TA), filed December 22, 1980. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango St., S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *Canned and preserved foodstuffs,* from Markham, WA, Aberdeen, WA, and Portland, OR, to the facilities of Heinz, U.S.A. at or near Tracy, CA, and Stockton, CA; from the facilities of Heinz, U.S.A. at or near Tracy, CA, and Stockton, CA, to points in AZ, CO, ID, MT, NV, TX, UT and WY, and in each case restricted to traffic originating at the named origins, for 270 days. Supporting shipper: Heinz, U.S.A., Division of H. J. Heinz Company, P.O.B. 57, Pittsburgh, PA 15230.

MC 152994 (Sub-6–1TA), filed December 17, 1980. Applicant: D. JORGENSEN TRUCKING, INC., P.O.B. C—Hwy 730, Irrigon, OR 97844. Representative: Dave Benson, P.O.B. 2308, Tri-Cities, WA 99302. *Contract carrier,* irregular routes; *Frozen food products,* between Jefferson-Morrow and Umatilla Counties or/and Walla Walla, WA on the one hand, and, on the other, points in WA and CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: U and I Incorporated, P.O.B. 2308, Tri-Cities, WA 99302.

MC 148731 (Sub-6–2TA), filed December 22, 1980. Applicant: MINKEVITCH TRUCKING & HAULING INC., P.O. Box 21525, Salt Lake City, UT 84121. Representative: Fred J. Minkevitch Jr., 6290 So. Holladay Blvd., Salt Lake City, UT 84121. *Contract carrier,* irregular routes, (1) *Salt* and *salt products,* and (2) *materials* and *supplies* used in (agricultural), (water treatment), (food processing), (wholesale grocery), and (institutional supply industries) when shipped in mixed loads with commodities named in (1) above. Between the facilities of Lake Crystal Salt Co. at or near Saline and Ogden, UT on the one hand, and, on the other, points in IA and TX under continuing contract with Lake Crystal Salt Co. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lake Crystal Salt Co., POB 459, Hutchinson, KS 67501.

MC 730 (Sub-6–13TA), filed December 22, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: Alfred G. Krebs (same address as applicant). *Common carrier: Regular routes: General commodities, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment.* (1) Between New Orleans, LA and Jacksonville, FL over U.S. Hwy 90, (2) Between Jackson, MS and Melbourne, FL over U.S. Hwy 49 to junction U.S. Hwy 98, then over U.S. Hwy 98 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction FL Hwy 40, then over FL Hwy 40 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction U.S. Hwy 192, and then over U.S. Hwy 192 to Melbourne, (3) Between Vicksburg, MS and Miami, FL over U.S. Hwy 80 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 19, then over U.S. Hwy 19 to junction U.S. Hwy 41, and then over U.S. Hwy 41 to Miami, (4) Between Nashville, TN and St. Petersburg, FL over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 275, and then over Interstate Hwy 275 to St. Petersburg, (5) Between Binghamton, NY and New Orleans, LA over Interstate Hwy 81 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction

Interstate Hwy 24, then over Interstate Hwy 24 to junction Interstate Hwy 59, then over Interstate Hwy 59 to junction Interstate Hwy 10, and then over Interstate Hwy 10 to New Orleans, (6) Between Scranton, PA and Key West, FL over Interstate Hwy 380 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction PA Hwy 33, then over PA Hwy 33 to junction U.S. Hwy 22, then over U.S. Hwy 22 to junction PA Hwy 611, then over PA Hwy 611, then over PA Hwy 611 to junction U.S. Hwy 202, then over U.S. Hwy 202 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction U.S. Hwy 301 at Petersburg, VA, then over U.S. Hwy 301 to junction Interstate Hwy 95 at or near Emporia, VA, then over Interstate Hwy 95 to junction U.S. Hwy 1, and then over U.S. Hwy 1 to Key West, (7) Between Lake City, FL and Miami, FL over FL Hwy 100 to junction U.S. Hwy 301, then over U.S. Hwy 301 to junction U.S. Hwy 441, then over U.S. Hwy 441 to junction U.S. Hwy 27, and then over U.S. Hwy 27 to Miami, (8) Between Jacksonville, FL and Punta Gorda, FL over U.S. Hwy 17, (9) Between Tampa, FL and Vero Beach, FL over FL Hwy 60, (10) Between Fort Myers, FL and West Palm Beach, FL over FL Hwy 80 to junction U.S. Hwy 441, then over U.S. Hwy 441 to West Palm Beach, (11) Between Louisville, KY and Mobile, AL over Interstate Hwy 65 to junction U.S. Hwy 31 at Kimberly, AL, then over U.S. Hwy 31 to junction Interstate Hwy 65 at Siluria, AL, and then over Interstate Hwy 65 to Mobile, (12) Between Panama City, FL and Trenton, NJ over U.S. Hwy 231 to junction U.S. Hwy 431, then over U.S. Hwy 431 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction Alternate Hwy 27, then over Alternate Hwy 27 to junction GA Hwy 85, then over GA Hwy 85 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 85, then over Interstate Hwy 85 to junction U.S. Hwy 29, at or near Lexington, NC, then over U.S. Hwy 29 to junction Interstate Hwy 85 at Greensboro, NC, then over Interstate Hwy 85 to junction U.S. Hwy 58, then over U.S. Hwy 58 to junction U.S. Hwy 13, then over U.S. Hwy 13 to junction U.S. Hwy 1, and then over U.S. Hwy 1 to Trenton, (13) Between Toledo, OH and Charleston, SC over U.S. Hwy 23 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction Interstate Hwy 77, then over Interstate Hwy 77 to junction U.S. Hwy 21, at Charlotte, NC, then over U.S. Hwy 21 to junction Interstate Hwy 26, and then over Interstate Hwy 26 to Charleston, (14) Between Kansas City, MO and Savannah, GA over U.S. Hwy 50 to junction U.S. Hwy 65, and then over U.S. Hwy 65 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 240, then over Interstate Hwy 240 to junction U.S. Hwy 78, then over U.S. Hwy 78 to junction U.S. Hwy 280, then over U.S. Hwy 280 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction Interstate Hwy 16, and then over Interstate Hwy 16 to Savannah, (15) Between Hammond, IN and Mobile, AL over U.S. Hwy 41 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction U.S. Hwy 431, then over U.S. Hwy 431 to junction U.S. Hwy 43, and then over U.S. Hwy 43 to Mobile, (16) Between Toledo, OH and Florence, SC over Interstate Hwy 75 to junction U.S. Hwy 441, then over U.S. Hwy 441 to junction U.S. Hwy 19, then over U.S. Hwy 19 to junction U.S. Hwy 278, then over U.S. Hwy 278 to junction U.S. Hwy 64, then over U.S. Hwy 64 to junction Interstate Hwy 26, then over Interstate Hwy 26 to junction Interstate Hwy 20, and then over Interstate Hwy 20 to Florence, (17) Between Canton, OH and Norfolk, VA over Interstate Hwy 77 to junction U.S. Hwy 60, and then over U.S. Hwy 60 to Norfolk, (18) Between Dallas, TX and Brunswick, GA over Interstate Hwy 30 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 280, then over U.S. Hwy 280 to GA Hwy 55, then over GA Hwy 55 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 84, and then over U.S. Hwy 84 to Brunswick, (19) Between St. Louis, MO and Jacksonville, FL over Interstate Hwy 64 to junction U.S. Hwy 23, then over U.S. Hwy 23 to junction U.S. Hwy 25, then over U.S. Hwy 25 to junction U.S. Hwy 1, and then over U.S. Hwy 1 to Jacksonville, (20) Between Memphis, TN and Williamston, NC over U.S. Hwy 64, (21) Between Willow Springs, MO and Lexington, KY over U.S. Hwy 60 to junction U.S. Hwy 62, at or near Paducah, KY, then over U.S. Hwy 62 to junction U.S. Hwy 60, at or near Versailles, KY, and then over U.S. Hwy 60 to Lexington, (22) Between Memphis, TN and Bristol, TN over Interstate Hwy 40 to junction U.S. Hwy 11W, and then over U.S. Hwy 11W to Bristol, (23) Between St. Louis, MO and Odessa, DE over U.S. Hwy 50 to junction U.S. Hwy 301, then over U.S. Hwy 301 to junction DE Hwy 299, and then over DE Hwy 299 to Odessa, (24) Between Birmingham, AL and St. George, SC over U.S. Hwy 78 to junction U.S. Hwy 278, at or near Atlanta, GA, then over U.S. Hwy 278 to junction U.S. Hwy 78, at or near White Pond, SC, and then over U.S. Hwy 78 to St. George, (25) Between Chicago, IL and New Orleans, LA over Interstate Hwy 57 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction U.S. Hwy 51, at or near Pochatoula, LA, then over U.S. Hwy 51 to junction Interstate Hwy 10, and then over Interstate Hwy 10 to New Orleans, (26) Between St. Louis, MO and Philadelphia, PA over Interstate Hwy 70 to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 83, then over Interstate Hwy 83 to junction U.S. Hwy 322, then over U.S. Hwy 322 to junction U.S. Hwy 422, and then over U.S. Hwy 422 to Philadelphia, (27) Between Phillipsburg, NJ and Greensboro, NC over U.S. Hwy 22 to junction PA Hwy 9, then over PA Hwy 9 to junction U.S. Hwy 222, then over U.S. Hwy 222 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 15, then over U.S. Hwy 15 to junction U.S. Hwy 29, and then over U.S. Hwy 29 to Greensboro, (28) Between St. Louis, MO and Mobile, AL over Interstate Hwy 55 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction U.S. Hwy 45E, then over U.S. Hwy 45E to junction U.S. Hwy 45, and then over U.S. Hwy 45 to Mobile, (29) Between Memphis, TN and New Orleans, LA over U.S. Hwy 61, (30) Between Natchez, MS and Waycross, GA over U.S. Hwy 84, (31) Between Hopkinsville, KY and Bowling Green, KY over U.S. Hwy 68, (32) Between Newport News, VA and Ridgeland, SC over U.S. Hwy 17, (33) Between Wilmington, NC and Atlanta, GA over U.S. Hwy 74 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction U.S. Hwy 19, and then over U.S. Hwy 19 to Atlanta, (34) Between Augusta, GA and Petersburg, VA over U.S. Hwy 1 to Petersburg, (35) Between Montgomery, AL and Dothan, AL over U.S. Hwy 231, (36) Between Bainbridge, GA and Tallahassee, FL over U.S. Hwy 27, (37) Between Opp, AL and Santa Rosa Beach, FL over U.S. Hwy 331 to junction U.S. Hwy 98, and then over U.S. Hwy 98 to Santa Rosa Beach, (38) Between Atlanta, GA and Montgomery, AL over Interstate Hwy 85; serving all intermediate points on Route Nos. (1) through (38) and serving all other points in AL, FL, GA, LA, MS, NC, SC, and TN as off-route points in connection with carrier's regular-route operations, for 270 days. There are 45 supporting shippers. Their statements may be examined at the Regional Office listed.

Note.—Applicant proposes to serve the commercial zones of the above named points, and it also intends to tack and interline. Common control may be involved.

MC 148874 (Sub-6–2TA), filed December 22, 1980. Applicant: PROFICIENT FOOD CO., 17872 Cartwright Rd., Irvine, CA 92705. Representative: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631. *Contract carrier,* irregular routes: *Non-exempt food products*—fresh frozen and canned; *meat and meat products*—fresh, frozen and canned; between Renton, WA and points and places in CA for 270 days. Supporting shipper: George A. Hormel & Co., P.O. Box 800, Austin, MN 55912.

MC 149078 (Sub-6–9TA), filed December 22, 1980. Applicant: ROAD WEST, INC., P.O. Box 3637, Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Frozen foods and prepared meats and foods requiring temperature control* in straight or mixed shipments with or without *prepared fish and fish foods* between facilities of Van de Kamp's, and, cold storage warehouses from which Van de Kamp's frozen foods, fish and fish products are shipped, on the one hand, and, on the other, points in the U.S., except AK and HI and except points in Los Angeles County, CA, Allegheny and Erie Counties, PA, on the one hand, and, on the other, points in CA, CO, IL, KS, LA, MI, NM, OK, OR, PA, TX and WA for 270 days. Supporting shipper: Van de Kamps Frozen Foods, 13100 Artic Circle Drive, Santa Fe Springs, CA 90670.

MC 153280 (Sub-6–1TA), filed December 22, 1980. Applicant: ROYAL FOODS INC., a Utah corporation, P.O. Box 385, Salt Lake City, UT 84110. Representative: Kathryn Denholm, 660 South 200 East No. 100, Salt Lake City, UT 84111. *Cheese, cottage cheese, cream cheese, butter, buttermilk, ice cream, yogurt, potatoes (powdered, sliced, shredded, frozen), meat and other foodstuffs* between points in UT, NV, CA and ID for 270 days. An underlying ETA seeks authority for 120 days. Supporting shippers: Western General Dairies, 700 Vine Street, Murray, UT 84107. Kent & Associates, 222 South 500 East, Salt Lake City, UT 84106. AIM, 225 West 1309 South, Salt Lake City, UT 84105.

MC 152518 (Sub-6–1TA), filed December 17, 1980. Applicant: SEVEN SEAS TRANSPORTATION COMPANY, INC., 515 Kietzke Lane, Reno, NV 89502. Representative: Alan J. Crosswhite (same as applicant). *Passengers and their baggage* in 20 passenger vehicles or less in regular service between points in Washoe County, NV and points in Placer and El Dorado Counties, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: There are 24 supporting shippers. Their statements may be examined at the regional office listed.

MC 139998 (Sub-6–1TA), filed December 19, 1980. Applicant: JOHN S. SHAFER, JR., P.O. Box 160, Baldwin Park, CA 91706. Representative: John S. Shafer, Jr. (same as applicant). *Contract carrier,* irregular routes: *Ore, ore concentrates and precipitates* from Mineral Park, AZ to McGill, NV under continuing contract with Kennecott Minerals Co., for 270 days. An underlying ETA has been approved for 120 days authority. Supporting shipper(s): Kennecott Minerals Co., McGill, NV 89318.

MC 138875 (Sub-6–38TA), filed December 22, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Such commodities as are dealt in by food business houses, and materials, ingredients and supplies used in their manufacture and distribution,* between points in Cuyahoga County, OH, on the one hand, and, on the other, points in Maricopa and Pima Counties, AZ; Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Bernardino, San Francisco, San Mateo and Santa Clara Counties, CA; Denver and Mesa Counties, CO; Ada and Bonneville Counties, ID; Cascade, Lewis and Clark, Missoula, Silver Bow and Yellowstone Counties, MT; Carson City, Clark and Washoe Counties, NV; Bernalillo and Santa Fe Counties, NM; Cuyahoga, Franklin and Hamilton Counties, OH; Clackamas and Multnomah and Lane Counties, OR; Davis, Salt Lake, Utah and Weber Counties, UT; King, Pierce and Spokane Counties, WA; and Albany, Laramie and Natrona Counties, WY, for 270 days. Supporting shipper: Stouffer Foods Corporation, 5750 Harper Road, Solon, OH 44139.

MC 135904 (Sub-6–3TA), filed December 22, 1980. Applicant: TNT CANADA, INC., 4878 Manor St., Burnaby, BC, Can. U5G 1B3. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. *General commodities* (except household goods and commodities in bulk between points in CA on the one hand, and, on the other, points on the international boundary line between the U.S. and Canada located in WA for 270 days. Supporting shippers: There are 29 shippers. Their statements may be examined at the regional office listed.

MC 153274 (Sub-6–1TA), filed December 17, 1980. Applicant: TRANS COAST ENTERPRISES, INC., 15217 Valley Blvd., Fontana, CA 92335. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, CA 90650. *Contract Carrier,* Irregular routes: *Rock, stone, clay, ore and ore concentrates,* between points in CA, AZ, NV, OR, WA, NM, UT, ID, CO, MT, and WY, for the account of American International Minerals, for 270 days. Supporting shipper: American International Minerals, Post Office Box 226, Kingman, AZ.

MC 150485 (Sub-6–6TA), filed December 22, 1980. Applicant: WESTSPAN HAULING, INC., 9122 South Tacoma Way, Tacoma, WA 98499. Representative: Henry C. Winters, 525 Evergreen B, Renton, WA 98055. *Contract Carrier,* Irregular routes: *Mobile homes and portable buildings, and equipment, materials and supplies used in the distribution and installation of mobile homes and portable buildings,* (1) from points in the commercial zones of Boise, ID, McMinnville, OR, Pendleton, OR, and Woodburn, OR, to points in the commercial zone of Everett WA, under continuing contract(s) with Karr Bros. Homes, Inc., of Everett, WA; (2) from points in the commercial zones of Boise, ID, Nampa, ID, Albany, OR, and Bend, OR, to points in the commercial zone of Tacoma, WA, under continuing contract(s) with Westlin Homes, Inc., of Tacoma, WA; (3) from points in the commercial zones of Caldwell, ID, Albany, OR, Aumsville, OR, and McMinnville, OR, to points in the commercial zone of Spanaway, WA, under continuing contract(s) with Romans Mobile Homes, of Spanaway, WA; and (4) from points in the commercial zones of Caldwell, ID, and Woodburn, OR, to points in the commercial zone of Centralia, WA, under continuing contract(s) with Brookbank, Inc., of Centralia, WA, for 270 days. An underlying ETA seeks 90 days authority. Supporting shippers: Karr Bros. Homes, Inc., 9701 Evergreen Way, Everett, WA; Westlin Homes, Inc., 9122 So. Tacoma Way, Tacoma, WA 98499; Romans Mobile Homes, 16615 Pacific Ave., Spanaway, WA 98387; and Brookbank, Inc., 5410 222nd Ave., S.W., Centralia, WA 98531.

MC 153263 (Sub-6–1TA), filed December 19, 1980. Applicant: ANGELYNES, INC., P.O. Box 472, Berthoud, CO 80513. Representative: Robert D. Brown, 1500 Dover Ave., Loveland, CO 80537. *Contract* carrier: *irregular* routes: *Fiberglass, mineral wool, building insulation and related building materials (i.e. polyethylene vapor barriers, preformed ceiling grids (steel), sheetrock, and styrofoam insulation sheeting)* ; between Kansas City, MO; Kansas City, KS; Waxahachie,

TX and construction sites or storage facilities in the states of KS, CO and WY under continuing contract with Metropolitan, Ideal & Sutton, Inc., P.O. Box 1675, Englewood, CO 80150, for 270 days. Supporting Shipper: Metropolitan, Ideal & Sutton, Inc., P.O. Box 1675, Englewood, CO 80150.

MC 115931 (Sub-6-3TA), filed December 16, 1980. Applicant: BEE LINE TRANSPORATION, INC., P.O.B. 3987, Missoula, MT 59806. Representative: Gene P. Johnson, P.O.B. 2471, Fargo, ND 58108. *Industrial radiators*, from facilities of Inland Engine Accessories, Inc., at or near Somers, WI to Peoria, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Inland Engine Accessories, Inc., 10424 38th St., Kenosha, WI 53140.

MC 153256 (Sub-6-1TA), filed December 18, 1980. Applicant: JACK BENTLEY, an individual, d.b.a. JACK BENTLEY TRUCKING, 36505 Wilson River Highway, Tillamook, OR 97141. Representative: Lex F. Page, One Southwest Columbia, Suite 800, Portland, OR 97258. *Cheese and Butter* from the facilities of Tillamook County Creamery Assocation, Tillamook, OR to points in CA and WA., for 270 days. Supporting Shipper: Tillamook County Creamery Association, P.O. Box 313, Tillamook, OR.

MC 134367 (Sub-6-6TA), filed December 17, 1980. Applicant: BLACKBURN TRUCK LINES INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schregg, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Mineral fiber, mineral fiber products and insulating materials* from the United States Gypsum Company facilities in Pierce County, WA to CA, ID, UT and MT for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: United States Gypsum Company, 101 South Wacker Dr., Chicago, IL 60606.

MC 42487 (Sub-6-47TA), filed December 17, 1980. Applicant: CONSOLIDATED FREIGHTWAYS, Corporation of Delaware, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier*, regular routes: *General commodities, (except those of unusual value, Classes A and B explosives, livestock, green hides, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, serving the facilities of Goulds Pumps, Inc.,—Goyne Pump Division at or near Ashland, PA, Gold Mills, Inc., and Penn Dye and Finishing Co., Inc., at or near Pine Grove, PA, Wright's Knitwear at or near Auburn, PA and Reading Anthracite Company at or near Locust Summit, PA, as off-route points in connection with carrier's otherwise authorized regular route operations, for 270 days. Applicant intends to tack to its existing authority and any authority it may acquire in the future, to permit service to and from points throughout the United States. Supporting shipper(s): Goulds Pumps, Inc.—Goyne Pump Division, East Center Street, Ashland, PA 17921. Gold Mills, Inc., and Penn Dye and Finishing Co., Inc., Penn Dye Street, Pine Grove, PA 17963. Wright's Knitwear, 800 W. Market Street, Auburn, PA 17922. Reading Anthracite Company, 200 Mahantongo Street, Pottsville, PA 17901.

MC 42487 (Sub-6-48TA), filed December 18, 1980. Applicant: CONSOLIDATED FREIGHTWAYS, Corporation of Delaware, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O.B. 3062, Portland, OR 97208. *Common carrier*, regular routes: *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 Randolph, VT as an off-route point and points in Windsor County, VT, as intermediate or off-route points, in connection with carrier's existing regular route operations, for 270 days. Supporting shipper(s): Vermont Castings, Inc., P.O.B. 40, Prince Street, Randolph, VT 05060.

Note.—Applicant intends to tack its existing authority to permit service to and from points throughout the United States.

Note.—Applicant proposes to interline traffic with its present connecting carriers.

MC 136605 (Sub-6-22TA), filed December 8, 1980. Applicant: DAVIS TRANSPORT, INC., P.O.B. 8129, Missoula, MT 59807. Representative: Allen P. Felton (same as applicant). *Plastic pipe and fittings and such articles required for its installation*, from Madison, WI, to points in MT, ND, SD, NE, for 270 days. Supporting shipper: Hurlbut Plastic Pipe Corporation, 206 E. Olin Ave, Madison, WI 53701.

MC 26396 (Sub-6-55TA), filed December 22, 1980. Applicant: THE WAGGONERS TRUCKING, P.O.B. 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O.B. 82028, Lincoln, NE 68501. (1) *Building materials, roofing materials, insulating materials, plastic products, diatomaceous earth, and pipe*, from Denison, TX; Waukengan, IL; and points in CA and OH to ports of entry on the International Boundary line between the U.S. and Canada located in WA, ID, MT, ND and MN; and (2) *Building materials*, from ports of entry on the International Boundary line between the U.S. and Canada located at Portal, ND and Sweetgrass, MT to points in AZ, CA, LA, NV, OK, and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Johns-Manville Canada Inc., 295 The West Mall, Etobicoke, Ontario M9C 4Z7.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 81-174 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

## Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Notice.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

**Motor Carriers of Property**

**Notice No. F-84**

The following applications were filed in Region I.

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 144709 (Sub-1-4TA), filed December 22, 1980. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. *Contract carrier:* irregular routes: *Water treatment chemicals and equipment, activated carbon, spent carbon and materials and supplies used or useful in the manufacture thereof* between points in the US on traffic originating at or destined to the facilities and subsidiaries of Calgon Corporation. Supporting shipper: Calgon Corporation, P.O. Box 1346, Pittsburgh, PA 15230.

MC 153140 (Sub-1-2TA), filed December 22, 1980. Applicant: PIONEER FREIGHT SYSTEMS, INC., 144 Parsippany Rd., P.O. Box 5, Whippany, NJ 07981. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier:* irregular routes: *(1) Drugs, medicines, toilet preparations, personal care products, soap, chemicals and pet products (2) plastic and glass bottles and caps; (3) advertising paraphernalia; and (4) material, equipment and supplies used in the manufacture, sale and distribution of the commodities in 1, 2 and 3 above,* between all points in the US under a continuing contract with Carter Wallace, Inc., of Cranbury, NJ, and The Mennen Company of Morristown, NJ. Supporting shipper(s): Carter Wallace, Inc., Half Acre Road, Cranbury, NJ 08512; The Mennen Company, Hanover Ave., Morristown, NJ 07960.

MC 35906 (Sub-1-1TA), filed December 22, 1980. Applicant: JOHN LESTICIAN TRUCKING, INC., 500 Breunig Ave., Trenton, NJ 08638. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. *(1) Mattresses, box spring mattresses, sofa-beds, lounges, frames, bed-ends, and parts, supplies and accessaries pertinent thereto; (2) boxes, cartons, bags, pads, wadding and other packing materials used for protection and insulation of commodities* from Somerset and Middlesex Counties, NJ to Philadelphia, PA and the Philadelphia, PA Commercial Zone. Supporting shippers: The Stearns & Foster Co., Cincinnati, OH 45215; Jiffy Packaging Corp., Clyde Rd., Somerset, NJ 08873.

MC 59720 (Sub-1-3TA), filed December 22, 1980. Applicant: KENMORE TRANSPORTATION COMPANY, 22 Eskow Road, Worcester, MA 01604. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. *Chemicals,* between Worcester, MA and points in the US east of the Mississippi River. Supporting shipper: Chemical Sales & Service Company, Inc., 61 Frement Street, Worcester, MA.

MC 145115 (Sub-1-4TA), filed December 23, 1980. Applicant: NY., NJ., CONN., FRIEGHT & MESSENGER CORP., 351 West 38th Street, New York, NY 10018. Representative: Ronald Shapss, Esq., 450 Seventh Avenue, New York, NY 10123. *Contract carrier:* irregular routes: *Wearing apparel and related articles, handing and/or in cartons,* from Forest Park, GA, to Carson, CA, under a continuing contract or contracts with K Mart Apparel Corp. Supporting shipper: K Mart Apparel Corp., 7373 West Side Avenue, North Bergen, NJ.

MC 140768 (Sub-1-13TA), filed December 23, 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. *Disposable diapers,* from East Camden, AR to Dallas and McAllen, TX; Liverpool, NY; Memphis, TN; Flint and Grand Rapids, MI; Irwin, McKees Rocks and Pittsburgh, PA; and New York, NY, Philadelphia, PA, and Houston, TX, and points in the commercial zones thereof. Supporting shipper(s): Chicopee, P.O. Box 1151, New Brunswick, NJ 08903.

MC 153292 (Sub-1-1TA), filed December 23, 1980. Applicant: PREMIUM PLASTICS, INC., 250 Forrest Street, Metuchen, NJ 08840. Representative: Harold L. Reckson, 33-28 Halsey Road, Fair Lawn, NJ 07410. *Contract carrier:* irregular routes: *Plastic materials,* between Franklin County, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, MO, NJ, OH, PA, TN and WI, under continuing contract(s) with Hercules, Incorporated. Supporting shipper: Hercules Corp., 814 Commerce Drive, Oak Brook, IL 60521.

MC 143127 (Sub-1-31TA), filed December 19, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Linda A. Calvo, 6070 Collett Road, Victor, NY 14564. *Such commodities as are dealt in by the construction and home improvement industry and related materials,* between Colorado Springs, CO, Toledo, OH, and Van Buren, AR, on the one hand, and, on the other, points in the US. Supporting shipper: LST Corp., 4747 Holland-Sylvania Rd., Sylvania, OH 43560.

MC 153277 (Sub-1-1TA), filed December 19, 1980. Applicant: TRINITY TRUCKING CO., INC., 105 Clubhouse Drive, Town Bank, NJ 08204. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. *Contract carrier:* irregular route: *Building materials, and supplies, materials and equipment used in the manufacture, sale and distribution thereof,* between Philadelphia, PA on the one hand, and, on the other, points in CT, DE, DC, MA, MD, NJ, NY, NC, OH, PA, VA and WV. Supporting shipper: The Celotex Corporation, 1500 North Dale Mabry, Tampa, FL 33607.

MC 153291 (Sub-1-1TA), filed December 22, 1980. Applicant: MIDCOAST TRUCKING, 131 Beaverbrook Road, Lincoln Park, NJ 07035. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110. *Such commodities as are dealt with by wholesale, retail, chain grocery and food business houses* between points in NJ, on the one hand, and, on the other, points in Rockland, Suffolk, Ulster and Westchester Counties, NY Commercial Zone. Supporting shipper: General Foods Corporation, 250 North Street, White Plains, NY 10625.

MC 87451 (Sub-1-4TA), filed December 22, 1980. Applicant: CARGO TRANSPORT, INC., 100 Garfield Avenue, P.O. Box 268, Sommerville, MA 02143. Representative: William F. Mix, 153 Grove Street, Lexington, MA 02143. *Steel Scaffolding KDF; forms or molds NOI; concrete construction, iron, wood, or iron and wood combined KD or nested in panels; aluminum structural forms NOI, SU; and equipment, materials, and supplies used in the manufacture, distribution, erection and sale thereof,* between the facilities of Patent Scaffolding at or near Medfor, MA; Providence, RI; and Hartford, CT; on the one hand, and, on the other, points and places in the US (excluding AK and HI). Supporting shipper: Patent Scaffolding, Inc., Division of Harsco Corp., 2125 Center Ave., Fort Lee, NJ 07024.

MC 126253 (Sub-1-1TA), filed December 22, 1980. Applicant: WESTERN MASS. BUS LINES, INC., 59 Service Center, Northampton, MA 01060. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *Passengers and their baggage, in special operations,* beginning and ending at

Northampton, Easthampton, Amherst, Williamsburg, and Hadley, MA, and extending to points in ME, NH, VT, CT, RI, NY, NJ, DE, PA, MD, VA, FL and DC. Supporting shipper(s): There are fourteen statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 134535 (Sub-1–1TA), filed December 23, 1980. Applicant: CASALE CONTRACT CARRIERS, INC., P.O. Box 1393, Edison, NJ 08817. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *Paper and paper products, and materials, supplies and equipment used in the manufacture and distribution thereof,* between New Brunswick, NJ, on the one hand, and, on the other, points in Pennsylvania, under contract(s) with Container Corporation of America, Philadelphia, PA. Supporting shipper(s): Container Corporation of America, 5000 Flat Rock Road, Philadelphia, PA 19127.

MC 93147 (Sub-1–8TA), filed December 23, 1980. Applicant: DELTA TRANSPORT CORPORATION, 840 Union Street, P.O. Box 546, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *General commodities, (except commodities in bulk, in tank vehicles, used house hold furniture, commodities the transportation of which, because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the report descriptions in motor carrier certificates, 61 MCC 209 and 766, and explosives),* between points in the U.S. except AK and HI, restricted to traffic originating or destined to the facilites used by International Paper Co. Supporting shipper: International Paper Co., 220 East 42nd Street, NY, NY 10017

MC 145695 (Sub-1–1TA), filed December 23, 1980. Applicant: MAZCO SYSTEMS, INC., 140 Grand Street, Carlstadt, NJ 07072. Representative: Roy A. Jacobs, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier:* irregular routes: *Pipe fittings, connections and joints,* and materials, supplies and equipment used in the manufacture of said commodities between points in the U.S. (except AK and HI), under continuing contract(s) with Elkhart Products Corporation of Elkhart, IN. Supporting shipper: Elkhart Products Corporation, 1255 Oak Street, Elkhart, IN.

MC 124069 (Sub-1–1TA), filed December 22, 1980. Applicant: CONCRETE DELIVERY CO., INC., 7 North Steelawanna Avenue, Lackawanna, NY 14218. Representative: William J. Hirsch P.C., Attorney at Law, 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Special Type 2 Cement, in bulk and in bags,* from Rochester, NY, to the Commerical Zone of the City of Saginaw, MI. Supporting shipper: Rochester Portland Cement Corp., P.O. Box 4749, Charlotte Station, Rochester, NY 14612

MC 150987 (Sub-1–5TA), filed December 22, 1980. Applicant: DOWN EAST TRUCKING, INC., MRC 156, Bangor, ME 04401. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Coal,* from PA and WV to CT, MA, RI, NH, ME, and VT. Supporting shipper: b.f. Emery Co. Div. of Wadleigh's Inc., 52 Summer St., Kennebunk, ME 04043.

MC 153279 (Sub-1–1TA), filed December 22, 1980. Applicant: BONWAY SERVICE TRANSPORT, INC., 54 Fulton Street, Buffalo, NY 14204. Representative: Robert D. Gunderman, Suite 710, Statler Bldg., Buffalo, NY 14202. *Contract carrier:* Irregular routes: *Sugar,* between Buffalo, NY on the one hand, and, on the other, points in CA, CO, CT, DE, DC, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, PA, RI, SD, VT, VA, WV, and WI, under a continuing contract or contracts with U.S. Sugar Company, Inc. Supporting shipper: U.S. Sugar Company, Inc., P.O. Box 1997, Buffalo, NY 14219.

MC 100318 (Sub-1–1TA), filed December 18, 1980. Applicant: JAMES F. MOLLENHAUER d.b.a. CITY TRANSPORT COMPANY, P.O. Box 1331, Cherry Hill, NJ 08034. Representative: Ronald Ervais, 1315 Walnut Street, Suite 1329, Philadelphia, PA 19107. *General commodities* between points in PA, DE, MD, NJ, NY, DC, and VA. Supporting shipper(s): There are seven statements in support of this application that may be reviewed at the Regional Office of the I.C.C. in Boston, MA.

MC 119552 (Sub-1–10TA), filed December 19, 1980. Applicant: J.T.L., Inc., 49 Rosedale Street, Providence, RI 02903. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW, Washington, DC 20036. *Contract Carrier:* Irregular Routes: *General Commodities (except household goods as defined by the Commission and Classes A and B explosives)* between all points in the U.S., under continuing contracts with Denton Sales Company, Inc. Supporting shipper: Denton Sales Company, Inc., 11210 Zodiac Lane, P.O. Box 29749, Dallas, TX 75229.

MC 15859 (Sub-1–1TA), filed December 17, 1980. Applicant: THE HINE LINE, 247 Emmet Street, Newark, NJ 07114. Representative: Michael D. McCormick, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *(a) Iron and steel articles* and *(b) materials, equipment and supplies used in the manufacture thereof,* between Middlesex County, NJ, on the one hand, and, on the other, points in and east of MN, IA, MO, OK, and TX. Restricted to traffic originating at or destined to the facilities of Raritan River Steel Company located at or near Perth Amboy, NJ. Supporting shipper: Raritan River Steel Company, P.O. Box 309, Perth Amboy, NJ 08882.

MC 142126 (Sub-1–1TA), filed: December 17, 1980. Applicant: FOAM TRANSPORT, INC., 201 Ballardvale Street, Wilmington, MA 01887. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Contract carrier:* irregular routes: *Plastic articles and equipment, materials, and supplies used in the manufacture, sale, and distribution of plastic articles (except in bulk),* from Leola, PA to Waxahachie, TX, and Horse Cave, KY, under a continuing contract with Dart Container Corporation of Pennsylvania. Supporting Shipper: Dart Container Corporation of Pennsylvania, 60 East Main Street, Leola, PA 17540.

MC 3252 (Sub-1–3TA), filed December 19, 1980. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, ME 04104. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. *Cement, in bulk* from Thomaston, ME to points in NH. Supporting shipper: Persons Concrete, Inc., Box 157, Winnisquam, NH 03289.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 141514 (Sub-4–1TA), filed December 19, 1980. Applicant: WILLIAM H. BURGENER, d.b.a. BURGENER CONTRACT CARRIERS, Route 3, Box 485, Merrill, WI 54452. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract,* Irregular; (1) *Footwear, leather or leather products and equipment materials and supplies used in the manufacture, sale and distribution thereof* between points in Langley, Lincoln and Wood Counties in WI, on the one hand, and, on the other, points in the U.S. under contract to Weinbrenner Shoe Company, Merrill, WI and (2) *Fabricated metal products*

*and equipment, supplies and materials used in the manufacture, sale and distribution thereof* between points in Lincoln County, WI on the one hand, and, on the other, points in the U.S. under contract to Northern Wire Corporation, Merrill, WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: (1) Weinbrenner Shoe Company, 108 S. Polk Street, Merrill, WI 54452 and (2) Northern Wire Corporation, 1100 Taylor Street, Merrill, WI 54452

MC 148125 (Sub-4–1TA), filed December 19, 1980. Applicant: JAMES N. SKRZYPCHAK, d.b.a. SUN DOG TRUCKING, 9709 Highway 29 West, Wausau, WI 54401. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract:* Irregular; *(a) Rough and plained or finished boards; and (b) building materials* between points in IN, IL, and MN, on the one hand, and, on the other, points in Clark and Marathon Counties, WI. Restriction: Restricted to transportation performed under a continuing contract(s) with Kolbe Bros. Lumber and Lato Corporation. An underlying ETA seeks 120 days authority. Supporting shippers: Kolbe Bros. Lumber Company, 9509 Hwy 29 West, Wausau, WI 54401; and Lato Corporation, Route 3, Thorp, WI 54471.

MC 151934 (Sub-4–4TA), filed December 19, 1980. Applicant: KING'S EXPRESS, INC., Rural Route 2, St. Joseph, MN 56374. Representative: Stanley C. Olsen, Jr., GUSTAFSON & ADAMS, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the Report in Motor Carrier Certificates, 61 M.C.C. 209 and 766, between St. Cloud, MN, on the one hand, and, on the other, points in the U.S. Supporting shipper: ST. CLOUD MEAT AND PROVISIONS, INC., 7232 Fourth Street South, St. Cloud, MN 56301.

MC 145437 (Sub-4–12TA), filed December 22, 1980. Applicant: JWI TRUCKING, INC., 8100 North Teutonia Ave., Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Common; irregular. Ready made garments and wearing apparel* between points in the U.S. (except AK and HI), on the one hand, and, on the other, Detroit, MI and points in the Detroit, MI commercial zone. Underlying ETA seeks 120 days authority. Supporting shippers: Hughes & Hatcher, 1661 Porter Street, Detroit, MI, 48211; J. L. Hudson Company, 14225 West Warren, Dearborn, MI 48126; and Winkelman's Department Store, 25 Parsons, Detroit, MI 48201.

MC 151665 (Sub-4–2TA), filed December 22, 1980. Applicant: MAGNUM, LTD., P.O. Box 775, Hillsboro, ND 58045. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract,* irregular: *Industrial limerock* from Duluth, MN, to the facilities of American Crystal Sugar at or near Moorhead, East Grand Forks and Crookston, MN, and Drayton and Hillsboro, ND, under continuing contract(s) with American Crystal Sugar Company. An underlying ETA seeks 120 days authority. Supporting shipper: American Crystal Sugar Company, 101 North 3rd Street, Moorhead, MN 56560.

MC 153273 (Sub-4–1), filed December 22, 1980. Applicant: SCHREIBER TRANSIT, INC., 425 Pine Street, Green Bay, WI 54305. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract,* irregular: *General Commodities* except Class A & B Explosives, between points in the U.S. under contract with Schreiber Cheese Company, Inc. and its subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: Schreiber Cheese Company, Inc., 425 Pine Street, Green Bay, WI 54305.

MC 142920 (Sub-4–8TA), filed December 22, 1980. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46221. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract,* irregular: *General commodities* (except Classes A and B explosives and household goods as defined by the Commission) from points in CT, MA, NY, NJ, and PA to points in IL and IN under contract(s) with Payless Cashways, Inc. of Kansas City, MO. Supporting shipper: Payless Cashways Inc., 3100 Broadway, Suite 1000, Kansas City, MO 64111.

MC 135410 (Sub-4–18TA), filed December 22, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North 6th St. Rd., Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Foodstuffs (except commodities in bulk),* (1) between the facilities of General Mills, Inc. at or near Cedar Rapids, IA, Galesburg, IL, Buffalo, NY and Toledo, OH and (2) between the facilities of General Mills, Inc. at or near Galesburg, IL, on the one hand, and, on the other, points in AR, AZ, CA, IA, IN, KS, KY, MI, MN, MO, NE, OH, TN, and WI. Supporting shipper: General Mills, Inc., 9200 Wayzata Blvd., Minneapolis, MN 55426.

MC 143280 (Sub-4–2), filed December 22, 1980. Applicant: SAFE TRANSPORTATION COMPANY, 6834 Washington Ave. So., Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs,* from the facilities of the Creamette Company in Hennepin County, MN to points in AZ, AL, CA, CO, GA, IN, KY, MI, MT, NM, NV, OH, OR, OK, PA, TN, TX, UT, and WA. An underlying ETA seeks 120 days. Supporting shipper: The Creamette Company, 428 North First Street, Minneapolis, MN 55401.

MC 123272 (Sub-4–7TA), filed December 22, 1980. Applicant: FAST FREIGHT, INC., 9651 S. Ewing Ave., Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Paper and paper products,* from Cincinnati, OH, to points in IN, IL, WI, and those points in MO and IA on the Mississippi River and points in KY on the Ohio River, and points in TX, LA, MS, AL, GA, FL, NY, NJ, WV and MN. An underlying ETA seeks 120 days authority. Supporting shipper: C. W. Zumbiel Company, 2339 Harris Ave., Cincinnati, OH 45212.

MC 152100 (Sub-4–2TA), filed December 22, 1980. Applicant: W & H TRUCK SYSTEMS, INC., 7601 West 59th Street, Summit, IL 60501. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *(a) Foodstuffs, other than in bulk, and other than refrigerated; and (b) Materials, equipment and supplies used or useful in the manufacture, sale and distribution of commodities named in (a) above;* between the facilities of D'Amico Foods Co. at Steger and Park Forest South, IL, on the one hand, and, on the other, points in the States of MN, IA, MO, AR, LA and east thereof. Supporting shipper: D'Amico Foods Co., 2601 Bond St., Park Forest South, IL 60444.

MC 29886 (Sub-4–7TA), filed December 17, 1980. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314—39th Avenue, Kenosha, WI 53142. Representative: Carl G. Van Dyke (same address as applicant). *Non Ferrous Metals,* from Indianapolis and Muncie, IN, to Murfreesboro, TN. An underlying ETA seeks 90 days authority. Supporting shipper: Bergsoe-Boliden, P.O. Box 2466, Muncie, IN 47032.

MC 40978 (Sub-4–11TA), filed December 22, 1980. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 South Business Drive, Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Avenue,

Milwaukee, WI 53203. *New furniture,* from Wilson, MI, to points in IA, IL, IN, MN, MO, OH, WI, and the Lower Peninsula of MI. An underlying ETA seeks 120 days authority. Supporting shipper: Robinson Furniture Mfg. Company, Route 1, Wilson, MI, 49896.

MC 143776 (Sub-4-16TA), filed December 19, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Residential and commercial insulation* from Fontana, CA, Pueblo, CO, Belton, TX, Cameron, MO and Alexandria, IN and their respective commercial zones to various points in the U.S. Supporting shipper: Rockwool Industries, Inc., 7400 South Alton Court, Englewood, CO 80112.

MC 144578 (Sub-4-1), filed December 22, 1980. Applicant: LIME, INC., 3969 Wyoming Ave., Dearborn, MI 48126. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Lime, limestone and limestone products,* in bulk, between Kimballton, VA and points in GA, IN, KY, OH, NC, SC, TN and WV. Supporting shipper: Gold Bond Building Products, a Division of National Gypsum Company, 2001 Rexford Road, Charlotte, NC 28211.

MC 153258 (Sub-4-1), filed December 18, 1980. Applicant: DENNIS R. HILKER TRUCKING, INC., 712 W. Millard Street, New London, WI 54961. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract: irregular; general commodities* with usual exceptions between points and places in the U.S. (except AK and HI) under contract to Hillshire Farms Company and subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: Hillshire Farms Company, P.O. Box 227, New London, WI 54961.

MC 150786 (Sub-4-3), filed December 18, 1980. Applicant: BOBBY BARNES & CHARLES FITZPATRICK, d.b.a. B & F TRUCKING, 3250 Sangamon Street, Steger, IL 60415. Representative: Philip A. Lee, 120 West Madison Street, Chicago, IL 60602. (A) *Foodstuffs,* and (B) *Materials, equipment and supplies used or useful in the manufacture, sale and distribution of foodstuffs,* between Park Forest South and Steger, IL and IN, MI, WI, IA, MS, MO, KY, TN, OH, PA, GA, AL, TX, AR, CA, FL, LA, OK, NE, NJ, KS, NM, NY, NC, SC, VA, WV, DE, MD, CO, ND, and SD. Supporting shipper: D'Amico Foods Company, 3601 Chicago Rd., Steger, IL 60475.

MC 153306 (Sub-4-1TA), filed December 24, 1980. Applicant: JAMES A PATON, d.b.a. GENERAL FREIGHT SYSTEMS, 4303 Kennedy, East Chicago, IN 46312. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract, Irregular: Iron and steel articles* between points in IL, IN and WI under continuing contracts with Robinson Steel Company, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Robinson Steel Company, Inc., 222 South Riverside Plaza, Chicago, IL 60606.

MC 41406 (Sub-4-3), filed December 23, 1980. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 Westlake Drive, Merrillville, IN 46410. Representative: Ralph D. Artim, President, 8400 Westlake Drive, Merrillville, IN 46410. *Iron and steel articles, and materials, equipment and supplies,* used in the manufacture and production of iron and steel articles, between points in Chicago, IL and Tulsa, OK, 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. Supporting shipper: Sauk Steel Co., Inc., South Chicago Heights, IL.

MC 144546 (Sub-4-1TA), filed December 24, 1980. Applicant: LAWYER TRUCKING, INC., Old State Road 67 South, P.O. Box 186, Mooresville, IN 46158. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. *Contract:* Irregular: *Insulation products,* and materials, equipment and supplies used in the manufacture thereof, between the facilities of Cellulose Manufacturing, Inc., located at or near Mooresville, IN, on the one hand, and, on the other, points in KY, IL, MI, MO, IA, OH and PA, under contract with Cellulose Manufacturing, Inc., Mooresville, IN. An underlying ETA seeks 120 days authority. Supporting shipper: Cellulose Mfg., Inc., 1155 Old State Rd., Mooresville, IN.

MC 152748 (Sub-4-2), filed December 22, 1980. Applicant: EZEKIEL MORRIS TRANSPORTATION, INC., 8042 South Champlain, Chicago, IL 60619. Representative: Stephen D. Froikin, One IBM Plaza, Suite 4750, Chicago, IL 60611. *Printed matter, office and printing machinery and paper products* between points in IL and points in IN, IA, KY, MI, MN, MO, NH, NJ, NY, OH, PA, TN and WI. Supporting shippers: Stuart-Hooper Company, 8757 S. Greenwood Ave., Chicago, IL 60619; The D. B. Hess Company, 1150 McConnell Rd., Woodstock, IL 60098.

MC 152936 (Sub-4-2TA), filed December 24, 1980. Applicant: ADIA CORPORATION, 13101 South Torrence Ave., Chicago, IL 60633. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Motor vehicles,* between points in IL, IN, MI, MO, OH and WI, on the one hand, and, on the other, points in CA. An underlying ETA seeks 120 days authority. Supporting shipper: Subaru Mid-America, Inc., 2374 Estes, Elk Grove Village, IL 60007.

MC 128651 (Sub-4-1), filed December 23, 1980. Applicant: CONTINENTAL AIR TRANSPORT CO., INC., 300 North Des Plaines St., Chicago, IL 60606. Representative: Richard A. Kerwin, 180 North La Salle St., Chicago, IL 60601. *Passengers and their baggage and express and newspapers in the same vehicle with passengers* between Chicago, IL and Milwaukee, WI serving as intermediate points junction Interstate Hwy 94 and IL 22; Great Lakes Naval Training Center, IL; junction Interstate Hwy 94, U.S. 41 and WI 50 approximately 4 miles west of Kenosha, WI; and junction Interstate 94, U.S. 41, and WI 20 approximately 6 miles from Racine, WI: From Chicago over Interstate Hwy 90 to Interstate Hwy 294, then over Interstate Hwy 294 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction IL Hwy 137, then over IL Hwy 137 to Great Lakes Naval Training Center, then over IL 137 to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction Interstate Hwy 94, then over Interstate 94 to Milwaukee, WI and return over same route (also from Chicago, IL over Interstate Hwy 90 to junction Interstate Hwy 294, then over Interstate Hwy 294 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Milwaukee, WI and return over the same route. Supporting shippers: There are 130 statements of support attached.

MC 119641 (Sub-4-4TA), filed December 23, 1980. Applicant: RINGLE EXPRESS, INC., 450 E. Ninth St., Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Such commodities as are dealt in or used by manufacturers and dealers of agricultural equipment and industrial equipment, and lawn care and leisure products* (except commodities in bulk), from the facilities of Deere & Company at Gulfport, MS, to points in CO, IL, IA, KS, MI, MN, MO, MT, NE, ND, OK, SD, WI and WY. Supporting shipper: Deere & Company, John Deere Road, Moline, IL 61265.

MC 153297 (Sub-4-1TA), filed December 23, 1980. Applicant: ART OELKE d.b.a. ART OELKE TRUCKING, 1406 South Ramsey, Blue Earth, MN 56013. Representative: Michael D. Johnson, Frundt, Frundt & Johnson, 117 West Fifth Street, Blue Earth, MN 56013.

*Contract:* Irregular, *Home building materials consisting of but not limited to lumber, insulation, shingles, and hardware,* from Blue Earth, MN to points in MN, IA, ND, SD, NE, WI, MO, and IL under a contract(s) with North Country Homes, Inc. Supporting shipper: North Country Homes, Inc., Highway 16 West, Blue Earth, MN 56013.

MC 151080 (Sub-4–3TA), filed December 22, 1980. Applicant: SENATE CARTAGE COMPANY, INC., 1010 Jorie Blvd., Oak Brook, IL 60521. Representative: Lawrence T. Sansone (same address as applicant). *General commodities (except in bulk, Class A and B explosives, and Household Goods),* between the facilities of Capitol Freight System, on the one hand, and, on the other points in the Continental U.S. Supporting Shipper: Capitol Freight System, P.O. Box 6546, Chicago, IL 60680.

MC 151899 (Sub-4–5TA), filed December 23, 1980. Applicant: BLACKHAWK EXPRESS, INC., 89 North Main Street, Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle Street, Chicago, IL 60603. *Contract:* Irregular; *Foodstuffs,* between Jefferson County, WI, on the one hand, and, on the other, points in the U.S. Under a continuing contract or contracts with Redi-Serve Food, Inc., Jones Dairy Farm, Moores Food Products, Inc., and Jefferson Meat Company. An underlying ETA seeks authority for 120 days. Supporting Shippers: Redi-Serve Food, Inc., 1200 Industrial Drive, Fort Atkinson, WI: Jones Dairy Farm, P.O. Box 28, Fort Atkinson, WI; Moores Food Products, Inc., 801 Rockwell, Fort Atkinson, WI; and Jefferson Meat Company, 154 West Linden Drive, Jefferson, WI.

MC 144645 (Sub-4–5TA), filed December 23, 1980. Applicant: ROBERT HANSEN TRUCKING, INC., Rt. 2, Box 125, Delavan, WI 53115. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract irregular: (1) Fruit juices, fruit drinks, and bottled drinking water; and (2) materials, equipment and supplies used in the manufacture or distribution of the commodities in part (1),* between points in the U.S. under continuing contracts with Ohio Pure Foods, Inc., of Akron, OH. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Ohio Pure Foods, Inc., 1680 East Market, Akron, OH 44305.

MC 117165 (Sub-4–2TA), filed December 22, 1980. Applicant: ST. LOUIS FREIGHT LINES, INC., P.O. Box 2140, Michigan City, IN 46360. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Building materials and landscaping timbers* from the facilities of AJD Forest Products, Inc at or near Grayling, MI to points in the U.S. in and east of MN, IA, MO, AR and LA. Supporting shipper: AJD Forest Products, Inc., P.O. Box 629, Grayling, MI 49738.

MC 145394 (Sub-4–14TA), filed December 23, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract: Irregular: Lawn and garden machines and equipment, and materials, equipment, and supplies used in the manufacture and distribution of such commodities* between points in the U.S. Restriction: Restricted to transportation performed under a continuing contract(s) with Falls Products, Inc. And underlying ETA seeks 120 days authority. Supporting shipper: Falls Products, Inc., 415 Railroad Ave., Genoa, IL 60135.

MC 146145 (Sub-4–1TA), filed December 23, 1980. Applicant: TOWER TRANSPORT, INC., 528 S. Cumberland Ave., Park Ridge, IL 60068. Representative: Edward G. Bazelon, 39 S. La Salle St., Chicago, IL 60603. (1) *Such commodities as are dealt in by manufacturers and distributors of foods, food products and malt beverages,* and *(2) materials, equipment, supplies and ingredients used by manufacturers and distributors of foods, products and malt beverages;* restricted in (1) and (2) against the transportation of commodities in bulk: between Chicago and Huntley, IL, and points in their respective commercial zones, on the one hand, and, on the other, CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD and WI. Supporting shipper: Dean Foods Co., 12007 Smith Drive, Huntley, IL 60142.

MC 116073 (Sub-4–1TA), filed December 22, 1980. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Moorhead, MN 56560. Representative: Paul D. Borghesani, Suite 300, Communicana Building, 421 So. Second Street, Elkhart, IN 46516. *Automobiles,* in secondary movements, in truckaway service, from points in the U.S. to Battle Creek, MI. Supporting shipper: The Model A and Model T Reproduction Corporation, Suite 1460, Tower 100, Renaissance Center, Detroit, MI 48243.

MC 145437 (Sub-4–13TA), filed December 23, 1980. Applicant: JWI TRUCKING, INC., 8100 North Teutonia Ave., Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Such merchandise as is dealt in by retail department stores and materials, equipment and supplies used or useful in the manufacture, sale or distribution of the involved commodities* between Minneapolis, MN and points in the Minneapolis, MN commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Braun's Fashions, Inc., 7630 Excelsior Boulevard, Minneapolis, MN 55426.

MC 145653 (Sub-4–2TA), filed December 22, 1980. Applicant: KIRCHWEHM BROS. CARTAGE CO., INC., 1700 West Carroll Avenue, Chicago, IL 60612. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Contract:* Irregular: *(a) Such commodities as are dealt in by the food, grocery and drug industries;* between points in the continental U.S. Under contract with Procter & Gamble Distributing. Supporting shipper: The Procter & Gamble Distributing Co., Cincinnati, OH 45201.

MC 152353 (Sub-4–2TA), filed December 22, 1980. Applicant: WILLIAM TIMBLIN TRANSIT, INC., Route 1, Eden, WI 53019. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Coils of steel wire* from Saukville, WI, to points in MI. Supporting shipper: Charter Rolling, a Division of Charter Manufacturing Company, Inc., 1658 Cold Spring Drive, Saukville, WI 53080.

MC 76993 (Sub-4–3TA), filed December 22, 1980. Applicant: EXPRESS FREIGHT LINES, INC., 4924 South 13th Street, Milwaukee, WI 53221. Representative: Michael J. Wyngard, 150 East Gilman Street, Madison, WI 53703. *Common; regular: General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (1) Between Milwaukee, WI and Grand Rapids, MI, serving no intermediate points. From Milwaukee, WI over I–94 to its jct. with I–196 at or near Benton Harbor, MI, then over I–196 to Grand Rapids, MI and return over the same route. (2) Between Milwaukee, WI and Grand Rapids, MI, serving the intermediate point of Kalamazoo, MI. From Milwaukee, WI over I–94 to its jct. with U.S. Hwy. 131 at or near Kalamazoo, MI, then over U.S. Hwy. 131 to Grand Rapids, MI and return over the same route. Applicant proposes to tack the requested routes with all existing authority and to interline with other existing carriers.

Underlying ETA seeks 120 days authority. 15 supporting shippers.

MC 151899 (Sub-4–4TA), filed December 22, 1980. Applicant: BLACKHAWK EXPRESS, INC., 89 North Main Street, Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Contract;* Irregular: *foodstuffs and such commodities used in the manufacture and distribution of foodstuffs* between Worcester and Southboro, MA on the one hand, and, on the other, points in the U.S. Under a contract or continuing contracts with Idlewilde Farms, Inc., a Division of Idlewilde Foods, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Idlewilde Farms, Inc., a Division of Idlewilde Foods, Inc., Searles Road, Pomfret Center, CT 06259.

MC 135152 (Sub-4–18TA), filed December 22, 1980. Applicant: CASKET DISTRIBUTORS, INC., Rural Route 3, West Harrison, IN 45030. Representative: James D. Campbell, P.O. Box 327, Harrison, OH 45030. *Electrical appliances and audio equipment* between facilities operated by General Electric Housewares and Audio Business Division, on the one hand, and, on the other, points in the U.S. (except AL and HI). Supporting shipper: General Electric Company, 1285 Boston Avenue, Bridgeport, CT 06612.

MC 124078 (Sub-4–50TA), filed December 23, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Magnetite,* from the facilities of Gauley Industries Inc. at or near Gauley Mills, WV to the facilities of the Tennessee Valley Authority at or near Drakesboro, KY. An underlying ETA seeks 120 days authority. Supporting shipper: Gauley Industries Inc., Box 86, Camden-on-Gauley, WV 26208.

MC 153296 (Sub-4–1), field December 23, 1980. Applicant: TIGER TOWING, INC., 652 West Lake St., Elmhurst, IL 60126. Representative: Martin J. Kennedy, 120 West Madison St., Suite 718, Chicago, IL 60602. *Buses, tractors, trailers and trucks by tow truck* between points in IL, IN, IA, KY, MI, MO, OH and WI. An ETA seeks 120 days authority. There are 6 supporting shippers.

The following protests were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 200 (Sub-5–75TA), field December 22, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *General Commodities (except household goods as defined by the Commission, and classes A. & B explosives),* between points in Hudson County, NJ, on the one hand, and, on the other, points in Milwaukee County, WI. Supporting shipper: J.C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019.

MC 200 (Sub-5–76TA), field December 22, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Primary metal products,—fabricated metal products, and Materials, supplies, and equipment used in the manufacture, sale, and distribution thereof,* between points in Marion County, WV, on the one hand, and, on the other, points in AR, OK, and TX. Supporting shipper: Alcan Aluminum Corporation, 100 Erieview Plaza, Cleveland, OH 44114.

MC 52460 (Sub-5–22TA), filed December 22, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga (same as applicant). *Meat, Meat Products and Meat By-Products, and Articles distributed by Meat Packing Houses as described in Sections A and C of Appendix "I" to the report in descriptions in Motor Carrier Certificates, 61, M.C.C. 209 and 766 (except hides and commodities),* From the facilities of Thies Packing, Inc. at or near Great Bend, Topeka, Wichita, KS to points in AL, AR, CA, CO, FL, GA, IL, IA, KY, LA, MS, MO, NE, NM, NC, OK, SC, TN, and TX. Supporting shipper: Thies Packing, Inc., P.O. Box 1658, Topeka, KS 66601.

MC 52460 (Sub-5–23TA), filed December 22, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizings, P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. *Meat, Meat Products and Meat By-Products, and Articles distributed by Meat Packing Houses as described in Sections A and C of Appendix "I" to the report in descriptions in Motor Carrier Certificates, 61, M.C.C. 209 and 766 (except hides and commodities in bulk),* From the facilities of Dubuque Packing, Inc. at or near Mankato, KS, and Wichita, KS to points in AL, AR, CA, CO, FL, GA, IL, IA, KY, LA, MS, MO, NE, NM, NC, OK, SC, TN, and TX. Supporting shipper: Dubuque Packing, Inc., Box 283, Mankato, KS 66956 and Dubuque Packing, Inc. P.O. Box 4225, Wichita, KS 67204.

MC 82841 (Sub-5–4TA), filed December 22, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Representative: William E. Christensen, 10770 I Street, Omaha, NE 68127. (1) *iron or steel articles and* (2) *material and equipment used in the manufacture and distribution thereof* between points in and east of TX, OK, KS, NE, IA, and MN. Supporting shipper: Raritan River Steel Company, P.O. Box 309, Perth Amboy, NJ 08862.

MC 107496 (Sub-5–47TA), filed December 22, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Sand, in bulk, in tank vehicles,* from Kansas City, KS to Ozark, MO. Supporting shipper: Ozark Concrete Company, 1948–C South Glenstone, Springfield, MO 65804.

MC 109397 (Sub-5–25TA), filed December 22, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). *(1) Electric substations; (2) primary metal products; (3) bead, hose, brush, wire and systems, parts, attachments and accessories for the Tire Industry; (4) equipment, materials and supplies used in the manufacture and distribution of items in (1), (2) and (3) above,* between Shelby, St. Clair and Jefferson Counties, AL, on the one hand, and, on the other, points in the U.S. Supporting shipper: Kidd Fab, Inc., P.O. Box 431, Bessemer, AL 35021; Dietrich Industries, Inc., P.O. Box 400, Asheville, AL 35953; National-Standard Co., P.O. Box 1208, Columbiana, AL 35051.

MC 109397 (Sub-5–26TA), filed December 22, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). *Self-propelled material handling equipment,* between points in the U.S.—restricted to traffic originating at or destined to the facilities of K–D Manufacturing Company. Supporting shipper: K–D Manufacturing Company, P.O. Box 4547, Waco, TX 76705.

MC 109397 (Sub-5–27TA), filed December 22, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). *Urethane foam insulating panels, and insulation* and *insulated siding,* from the facilities of RMAX, Inc. in Dallas, TX and Greer, SC.

to points in the U.S. Supporting shipper: RMAX, Inc., 13524 Welch Rd., Dallas, TX 75234.

MC 111401 (Sub-5-26TA), filed December 22, 1980. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Asphalt, in bulk, in tank vehicles,* from Stroud, OK to Elkhart, IN; Ocala, FL; and Hershey, PA. Supporting shipper: Chemical Product Development, Inc., 5001 S. McArthur Blvd., Oklahoma City, OK 73119.

MC 115724 (Sub-5-2TA), filed December 22, 1980. Applicant: J. W. PHILLIPS, INC., 4500 North Sewell: Suite No. 5, Oklahoma City, OK 73154. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. Contract; irregular. *Lumber and wood products* from WA, CA, and OR to points in OK, TX, and AR. Supporting shipper: Rogue Forest Products; P.O. Box 1803, Medford, OR 97501.

MC 117119 (Sub-5-47TA), filed December 22, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Printed matter* from the facilities of Dayton Press, Inc. located at Dayton, OH to points in the U.S. (except AK and HI). Supporting shipper: Dayton Press, Inc., P.O. Box 700, Dayton, OH 45401.

MC 118468 (Sub-5-22TA), filed December 22, 1980. Applicant: UMTHUN TRUCKING CO., 910 So. 4th Jackson Street, Eagle Grove, IA 50533. Representative: Wiliam L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Contract; Irregular. *Lumber, lumber products and wood products,* between points in IL, IN, IA, MI, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI) under contract with R. D. Johnson, Inc. Supporting shipper: R. D. Johnson Lumber, Inc., Box 184 N. Northfield, IL 60093.

MC 119399 (Sub-5-38TA), filed December 22, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara (address same as applicant). *Tires, pneumatic, noi, inner tubes, flaps and liners* from Columbus, OH to points in AZ, CO, NM, TX, MI and IN. Supporting shipper: Discount Tire Co., Inc., Phoenix, AR 85032.

MC 119988 (Sub-5-29TA), filed December 22, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood (same as applicant). *Lumber, lumber products, lumber mill products, forest products and wood products,* between points in OR, WA and CA. Supporting shipper(s): Oregon-California Forest Products, Inc., 1145 Chambers Street, Eugene, OR 97402.

MC 124174 (Sub-5-34TA), filed December 22, 1980. Applicant: MOMSEN TRUCKING CO., 13811 L Street, Omaha, NE 68137. Representative: Karl E. Momsen, 13811 L Street, Omaha, NE 68137. *General commodities (except A and B explosives) under protective service,* between Houston, TX and New Orleans, LA, on the one hand, and points in IL, NE, KS, MO, and KY on the other. Restricted to traffic having a subsequent or prior movement by water. Supporting shipper(s): Sea-Land Service, Inc., P.O. Box 900, Edison, NJ 08817.

MC 126118 (Sub-5-41TA), filed December 22, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same as applicant). *Such commodities as are dealt in by manufacturers and distributors of lawn care products,* between Marysville, OH, on the one hand, and, on the other, points in the U.S. Supporting shipper: O. M. Scott & Sons, Thomas L. McCarty, Traffic Manager, 333 North Maple, Marysville, OH 43041.

MC 126118 (Sub-5-42TA), filed December 22, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same as applicant). *Such commodities as are dealt in and used by wholesale grocery and general merchandise stores,* between points in AR, CO, FL, GA, IL, IN, IA, KS, LA, MI, MO, NE, NM, NC, OH, OK, TN, TX, WV, and WI, on the one hand, and, on the other points in the U.S. (except AK and HI). Supporting shipper: Shurfine-Central Corporation, Nello DiDomenico, Asst. Director of Distribution and General Traffic Manager, 2100 North Mannheim Road, Northlake, IL 60164.

MC 126118 (Sub-5-43TA), filed December 22, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same as applicant). *Clay products, equipment, and supplies,* between pts in FL and KY, on the one hand, and, on the other, pts in the U.S. (except AK and HI). Supporting shipper: Sikes Corporation (formerly Florida Tile Industries, Inc.), Charles I. Edwards, Corporate Traffic and Transportation Manager, U.S. Highway 127 and State Road 512, Lawrenceburg, KY 40342.

MC 129908 (Sub-5-40TA), filed December 22, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th, Oklahoma City, OK 73147. Representative: T. J. Blaylock, P.O. Box 75410, Oklahoma City, OK 73147. *Foodstuffs and kindred items* between points in IA and WI on the one hand, and, on the other, points in TX, TN, KS, MO, IN, and IL. Supporting shipper: Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036.

MC 133805 (Sub-5-35TA), filed December 22, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1 Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Chemicals (except in bulk)*—Between points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MI, MO, MS, NC, NJ, NY, OH, PA, SC, TN, TX, VA, WI and WV—Restricted to the transportation of traffic of Moreland-McKesson Chemical Company. Supporting shipper: Moreland-McKesson Chemical Co., Post Office Drawer 2169, Spartanburg, SC 29304.

MC 134134 (Sub-5-7TA), filed December 22, 1980. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, NE 68107. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114. *Meats, and packinghouse products,* from the facilities of Dubuque Packing Co. at Denison and Dubuque, IA to points in and east of MI, OH, VA, and WV. Supporting shipper: Dubuque Packing Co., P.O. Box 610, Denison, IA 51442.

MC 134229 (Sub-5-1TA), filed December 22, 1980. Applicant: RICHMOND TRANSFER, INC., Route 4, Box 1000, Richmond, MO 64084. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *General commodities, except Classes A and B explosives and household goods,* between Ray and Lafayette Counties, MO, on the one hand, and on the other, AR, IA, IL, IN, KS, KY, NE, OH, OK, TN and TX. Applicant intends to tack and interline. Supporting shippers: Price Candy Co., Richmond, MO 64085; Lawson Feed & Supply, Inc., Lawson, MO 64062; American Milgon Plastics, Inc., Orrick, MO 64077.

MC 136008 (Sub-5-10TA), filed December 22, 1980. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John E. Tipsword, Joe Brown Company, Inc., 5501 S. I-35 (P.O. Box 6210), Moore, OK 73153. *Muriate of Potash,* from Carlsbad, NM to points in

AR, LA and MO. Supporting shipper: United States Fertilizer Company, Inc., Little Rock, AR 72201.

MC 136786 (Sub-5–45TA), filed December 22, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., GUSTAFSON & ADAMS, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Cleaning compounds*, between Kansas City, KS, on the one hand, and, on the other, points in CA and NV. Supporting shipper: Star-Brite Sales, Inc., P.O. Box 4622, Overland Park, KS 66204.

MC 139382 (Sub-5–1TA), filed December 22, 1980. Applicant: DWIGHT PARKER TRUCKING CO., INC., P.O. Box 149, Hugo, OK 74743. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. *Gravel, rip rap, crushed rock and road building materials* between points in OK and TX. Supporting shipper: Two States Crusher, Inc., P.O. Box 67, Hugo, OK 74743.

MC 139642 (Sub-5–3TA), filed December 22, 1980. Applicant: BAMA TRANSPORTATION COMPANY, INC., 5247 East Pine, Tulsa, OK 74115. Representative: Jack R. Anderson, Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract; Irregular; *Ceramic tile, and equipment, materials and supplies used in the manufacture of ceramic tile* between all points in the United States, under a continuing contract with International American Ceramics, Inc. located in Tulsa, OK.

MC 140635 (Sub-5–8TA), filed December 22, 1980. Applicant: ADAMS LINES, INC., 2619 N Street, Omaha, NE 68107. Representative: John L. Hornung, President, 2619 N Street, Omaha, NE 68107. *Boots and shoes, and boot and shoe factory materials, supplies and equipment (except commodities in bulk).* (1) From Boston, MA and pts in its Commercial Zone, to Cape Girardeau and Jefferson City, MO; and (2) From Chicago, IL and in its Commercial Zone, to Jefferson City, MO.

MC 140665 (Sub-5–53TA), filed December 22, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *General Commodities (except articles of unusual value, Classes A and B Explosives, Household Goods as defined by the Commission, commodities in bulk, and articles requiring special equipment)* between points in CA, on the one hand, and on the other, points in and east of MN, IA, NE, KS, OK, and TX, restricted to traffic originating at the facilities of Intermodal Transport Company (ITCO), their customers and affiliates. Supporting shipper: Intermodal Transport Company, 2211 Wood Street, Oakland, CA 94607.

MC 141396 (Sub-5–2TA), filed December 22, 1980. Applicant: DELP, INC., Highway 71 South, P.O. Box 369, Springdale, AR 72764. Representative: Stanley W. Ludwig, P.O. Box 285, 529 S. Holcomb Street, Springdale, AR 72764. *Frozen Corn and Flour Tortillas (in boxes), and products used and sold by Mexican Original Products, Inc.* between the facilities of Mexican Original Products, Inc. at or near Fayetteville, AR on the one hand, and, on the other, points in the United States (except AK and HI).

MC 142508 (Sub-5–45TA), filed December 22, 1980. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, NE 68137. *Food products and by-products and equipment, materials, and supplies used in the manufacture, sale, and distribution thereof* between all points in the U.S. restricted to traffic originating at or destined to the facilities of the Kellogg Company. Supporting shipper: Kellogg Company, 235 Porter Street, Battle Creek, MI 49016.

MC 142508 (Sub-5–46TA), filed December 22, 1980. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, NE 68137. *Frozen bakery products and equipment, materials, and supplies used in the manufacture thereof* between the facilities of Table Talk, Inc., at points in MA and RI and points in the U.S. Supporting shipper: Table Talk, Inc., 153 Green Street, Worcester, MA 01608.

MC 143179 (Sub-5–6TA), filed December 22, 1980. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same address as applicant). *Contract;* irregular. *New furniture and new furniture parts,* from Kansas City, MO to points in KS and NE. Supporting shipper: Mittleman Furniture Company, 316 Oak Street, Kansas City, MO 64106.

MC 143389 (Sub-5–4TA), filed December 22, 1980. Applicant: MERCHANTS DUTCH EXPRESS, INC., 700 Pine St., Monroe, LA 71207. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S., 3390 Peachtree Rd., N.E., Atlanta, GA 30326. Contract; irregular; *Such commodities as are dealt in or used by manufacturers of paper and paper products (except in bulk),* between Monroe and West Monroe, LA, on the one hand, and, on the other, points in AL, AR, MS and TX. Supporting shipper: Bancroft Bag, Inc., P.O. Box 307, West Monroe, LA.

MC 143483 (Sub-5–1TA), filed December 22, 1980. Applicant: QUIK-HAUL, INC., P.O. Box 699, League City, TX 77573. Representative: Clayte Binion, 1108 Continental Life Building, Forth Worth, TX 76102. *Machinery, equipment, materials and supplies used in, or n connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products,* between Harris, Galveston and Brazoria Counties, TX on the one hand, and, on the other, points in LA. Supporting shipper: 5.

MC 144603 (Sub-5–33TA), filed December 22, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). *Boots, shoes and related articles* between St. Louis, MO, and points in its commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Footwear Unlimited Incorporated, 99 Larkin Williams Court, Fenton, MO 63026.

MC 145384 (Sub-5–10TA), filed December 22, 1980. Applicant: ROSE-WAY, INC., P.O. Box 4644, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Iron and steel articles,* from Ft. Wayne, IN to points in CA. Supporting shipper:(s) Joslyn Manufacturing and Supply Company, 9200 West Fullerton, Franklin Park, IL 60131.

MC 146055 (Sub-5–9TA), filed December 22, 1980. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Meats, and packinghouse products,* from the facilities of Sioux-Preme Packing Co., Sioux Center, IA, to points in NY and OH, and to points in and west of MT, WY, CO, and NM. Supporting shipper: Sioux-Preme Packing Co., Highway 75 South, Sioux Center, IA 51250.

MC 146800 (Sub-5–1TA), filed December 22, 1980. Applicant: VERMILLION BROTHERS, INC., Main Street Road, Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Castings, rough,* from Keokuk, IA to Sparks, NV and Oakland, CA. Supporting shipper:

Keokuk Steel Castings, 600 Morgan Street, Keokuk, IA 52632.

MC 148422 (Sub-5–1TA), filed December 22, 1980. Applicant: TWOWAY SUPPLY, INC., P.O. Box 347, Pond Creek, OK 73766. Representative: C. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *Steel pipe and casing*, from Longview, TX to Enid, OK and Great Bend, KS. Supporting shipper: MISCO United Supply, Inc., 200 Misco Bldg., Wichita, KS 67202.

MC 151788 (Sub-5–2TA), filed December 22, 1980. Applicant: MEL JARVIS CONSTRUCTION COMPANY, INC., 2934 Arnold Avenue, Salina, KS 67401. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Beer*, from Milwaukee, WI; Peoria, IL; Belleville, IL; Ft. Worth, TX; Memphis, TN; St. Louis, MO; and Omaha, NE, to Great Bend, Salina, Manhattan, Topeka and Hays, KS. Supporting shippers: B & S Distributing, 1115 Amherst, Hays, KS 67601; Vidricksen Distributing Co., Inc., 2231 Centennial, Salina, KS 67401; F & W Distributing Company, 225 North 3rd, Salina, KS 67401; and B & B Distributing Incorporated, R.R. 1, Manhattan, KS 66502.

MC 152021 (Sub-5–11TA), filed December 22, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., P.O. Box 678, Irving, TX 75060. Representative: Larry P. Cardin (same as applicant). Contract: irregular *(A) Power pumps, NOI, or parts thereof, and (B) Malt beverages and Motor oil*, between all points in the continental U.S. under contract with (A) Bingham-Willamette Company, Shreveport, LA, and (B) Carlisle Distributing Co., Inc., North Little Rock, AR. Shippers: (A) Bingham-Willamette Company, 7303 Westpark Road, Shreveport, LA 71129 and (B) Carlisle Distributing Co., Inc., 200 N. Cedar, North Little Rock, AR 72114.

MC 152021 (Sub-5–12TA), filed December 22, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., P.O. Box 678, Irving, TX 75060. Representative: Larry P. Cardin (same as applicant). Contract: Irregular. *Iron and Steel Articles, NOI*, from the facilities of CoMet Steel Inc. at Dallas, TX, to all points in the U.S. Supporting shipper: CoMet Steel Inc., 4846 Singleton Blvd., Dallas, TX 75212.

MC 152068 (Sub-5–2TA), filed December 22, 1980. Applicant: HOC-EXPRESS, INC., 125 N. Elizabeth, Wichita, KS 67203. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Air conditioning and refrigeration units and components; components, equipment, materials supplies necessary and useful in the rebuilding and repair of air conditioning and refrigeration units and components.* Part (1) Between points in Sedgwick County, KS and Points in OK and AR. Part (2) From points in IN to points in Sedgwick County, KS. Supporting shipper: Copeland Corp. Products Service, 3200 May, Wichita, KS 67213.

MC 152959 (Sub-5–4TA), filed December 22, 1980. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, 6000 Gum Springs Road, Longview, TX 75607. Representative: Robert Nieman (same as applicant). Contract; Irregular *Air conditioners, furnances, fans, mobile homes, modular homes and any and all related component parts thereof*, between the facilities of Eubank Manufacturing Enterprises, Inc., on the one hand, and all points in the continental U.S., on the other hand. Supporting shipper: Eubank Manufacturing Enterprises, Inc., P.O. Box 7576, Longview, TX 75602, 214–643–2261.

MC 153084 (Sub–5–1TA), filed December 22, 1980. CROWN EXPRESS, INC. (a Missouri corporation), 1222 West 12th Street, Kansas City, MO 64101. Representative: Donald J. Quinn, Attorney at law, Suite 900, 1012 Baltimore, Kansas City, MO 64105. *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 Kansas City, MO on the one hand and Topeka, KS on the other hand, serving all intermediate points. Supporting shippers: 26.*

MC 153275 (Sub–5–1TA), filed December 22, 1980. Applicant: RICK BROWN, d.b.a. BROWN BROS., Rippey, IA 50235. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Feed and feed ingredients*, (1) from Omaha, NE, to Des Moines, IA and Peoria, IL; (2) from Des Moines, IA, to Peoria, IL; and (3) between Des Moines, IA, on the one hand, and, on the other, Rock Island, Wheeling, and Quincy, IL; Union Center and Madison, WI; Nebraska City, Norfolk, and Hastings, NE; Lawrence and Kansas City, KS; Kansas City, MO; Minneapolis, MN; Van Burean, AR, and Sioux Falls, SD. Supporting shippers: Miller Chemical, 9100 F Street, Omaha, NE 68127; Feed Specialties Co., 1877 N.E. 58th Ave., Des Moines, IA 50313.

MC 153276 (Sub–5–1TA), filed December 22, 1980. Applicant: LTL CONSOLIDATORS & DISTRIBUTORS, INC., 700 Woodswehter Road, Kansas City, MO 64105. Representative: Charles J. Fain, Fain & Fain, 333 Madison Street, Jefferson City, MO 65101. *General commodities* between all points in MO, KS, and NE. Supporting shippers: These are 10.

MC 153281 (Sub–5–1TA), filed December 22, 1980. Applicant: DUTTON TRUCKING, INC., Route 2, Box 15, Cambridge, NE 69022. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Contract, Irregular: *Cheese, materials, supplies and equipment utilized in the manufacture and sale of cheese*, between points in the US, under a continuing contract with Oxford Cheese Corp. Supporting shipper: Oxford Cheese Corp., P.O. Box 68, Oxford, NE 68967.

MC 1263 (Sub–5–2TA), filed December 23, 1980. Applicant: McCARTY TRUCK LINE, INC., 17th and Harris, Trenton, MO 64683. Representative: James M. McCarty (same as above). Common, regular, *general commodities (except household goods as defined by the Commission and Classes A and B explosives)*. (1) between St. Joseph, MO and Kirksville, MO serving all intermediate points and serving Buchanan, Adair, Andrew, Caldwell, Clinton, Daviess, De Kalb, Grundy, Harrison, Linn, Livingston, Mercer, Platte, Putnam, Schuyler and Sullivan Counties, MO and Doniphan County, KS as off-route points: (a) from St. Joseph over U.S. Hwy 36 to the junction of U.S. Hwy 36 and U.S. Hwy 63, then over U.S. Hwy 63 to Kirksville, and return over the same route, (b) from St. Joseph over U.S. Hwy 36 to the junction of U.S. Hwy 36 and Interstate Hwy 35, then over Interstate Hwy 35 to the junction of Interstate Hwy 35 and MO Hwy 9, then over MO Hwy 6 to Kirksville, and return over the same route; (2) between St. Louis, MO and Kirksville, MO serving all intermediate points and serving St. Louis, Adair, Andrew, Caldwell, Clinton, Daviess, De Kalb, Grundy, Harrision, Linn, Livingston, Mercer, Platte, Putnam, Schuyler and Sullivan Counties, MO and St. Clair and Madison Counties, IL as off-route points: from St. Louis over Interstate Hwy 70 to the junction of Interstate Hwy 70 and U.S. Hwy 63, then over U.S. Hwy 63 to Kirksville, and return over the same route; (3) between Kansas City, MO and Kirksville, MO serving all intermediate points and serving Jackson, Clay, Platte, Cass, Adair, Andrew, Caldwell, Clinton, Daviess, DeKalb, Grundy, Harrison, Linn, Livingston, Mercer, Putnam, Schuyler and Sullivan Counties, MO and Johnson, Wyandotte and Leavenworth Counties, KS as off-route points: (a) from Kansas City over Interstate Hwy 35 to

the junction of Interstate Hwy 35 and U.S. Hwy 36, then over U.S. Hwy 36 to the junction of U.S. Hwy 36 and U.S. Hwy 63, then over U.S. Hwy 63 to Kirksville, and return over the same route, (b) from Kansas City over Interstate Hwy 35 to the junction of Interstate Hwy 35 and MO Hwy 6, then over MO Hwy 6 to Kirksville, and return over the same route. Applicant seeks to interline and to tack. Supporting shipper: There are 102 supporting shippers.

MC 126118 (Sub-5-44TA), filed December 24, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same as applicant). *Such commodities as are dealt in and used by manufacturers and distributors of paint and paint sundries,* between points in NC, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: D. C. May Ma-Crepe Corp., Elton Satterfield, President, P.O. Box 1926, Durham, NC 27002.

MC 135797 (Sub-5-92TA), filed December 24, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (address same as applicant). *General commodities,* between Springfield, MA on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Aquamaid Products, One Allen Street, Springfield, MA 01101.

MC 136786 (Sub-5-46TA), filed December 24, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411; Edina, MN 55435. *Foodstuffs,* between pts in Adair County, OK, on the one hand, and, on the other, pts in the U.S. in and east of IA, KS, MN, OK and TX. Supporting shipper: Stilwell Foods, Inc., P.O. Box 432, Stilwell, OK 74960.

MC 141175 (Sub-5-1TA), filed December 24, 1980. Applicant: GARLEPIED TRANSFER, INC., 319 Butterworth Street, Jefferson, LA 70181. Representative: G. H. Knapp, Jr., ICC Practitioner, 319 Butterworth Street, Jefferson, LA 70181. *Contaminated Atrazine, bags, boxes, and plastic wrappers* from the plant site of Ciba-Geigy Corporation at St. Gabriel, LA, to the plant site of Ciba-Geigy Corporation at McIntosh, AL, and return. Supporting shipper: J. R. McKeithen, Traffic Manager, Ciba-Geigy.

MC 141646 (Sub-5-2TA), filed December 24, 1980. Applicant: E. L. POWELL & SONS TRUCKING CO., INC., P.O. Box 356, Tulsa, OK 74101. Representative: T. M. Brown, P.O. Box 1540; Edmond, OK 73034. Contract ireg. *Residual fuel oil,* from Sugar Creek, MO to Port of Catoosa, OK under continuning contrast with National Petroleum Sales, Inc. Supporting shipper: National Petroleum Sales, Inc., 3105 E. Skelly Dr., Tulsa, OK 74105.

MC 144622 (Sub-5-63TA), filed December 24, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Electrical appliances, electrical equipment, and parts for electrical appliances and electrical equipment,* from Peru, IN to Dallas, TX. Supporting shipper: Square D Company, 8300 Burlington Pike, Florence, KY 41042.

MC 144622 (Sub-5-64TA), filed December 24, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Such commodities as are dealt in or sold by wholesale, retail, and discount stores and materials, equipment, and supplies used in the manufacture and distribution thereof* between the facilities of Lancaster Colony Corporation and its subsidiaries located in Jeannettee and Erie, PA; Hyannis Port, MA; and Sebring, OH, on the one hand, and, on the other, points in the United States. Supporting shipper: Lancaster Colony Corporation, 37 West Broad Street, Columbus, OH 43215.

MC 144622 (Sub-5-65TA), filed December 24, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *(1) Chemicals, toilet preparations, soaps; (2) Such commodities as are dealt in and sold by department stores, supermarkets, hardware stores and drug stores; (3) Equipment, materials, and supplies used in the manufacture, sale, and distribution of (1) and (2),* (A) Between Clifton and Mays Landing, NJ; West Springfield, MA; and Memphis, TN, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MA, MI, MN, MO, NC, NJ, OH, TN, WV, WI, NV, UT, CO, CA, WA, and OR; and (B) Between Sparks, NV, on the one hand, and, on the other, points in CA, CO, OR, WA, and UT. Supporting shipper: American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470.

MC 146021 (Sub-5-1TA), filed December 24, 1980. Applicant: RALPH OWENS TRUCKING CO., INC., 311 Park Avenue, P.O. Box 711, Hereford, TX 79045.. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763-9555. *Such commodities as are dealt in or used by meat packing houses* between points in TX and LA. Supporting shipper: Swanson Meat Company, Inc., P.O. Box 3303, Houston, TX 77001.

MC 153133 (Sub-5-2TA), filed December 24, 1980. Applicant: TRANS AMERICAN TRANSPORTATION SYSTEM, INC., Highway 59 South, Box 422, Stafford, TX 77477. Representative: Patricia L. Altman, 2523 Avenue H, Rosenburg, TX 77471. *Kiln Dust in Bag, Bayrite in bag,* and *Sand Blasting Sand in Bag,* between TX, on the one hand and, on the other, OK, AR, MN, and AZ. Supporting shipper: A.L.V. Enterprises Inc., 854 Robinwood, Stafford, TX 77477; C K Fabricators Inc, Route 3, Box 97, Mineral Wells, TX, 76067; Southern Clay Products, P.O. Box 44, Gonzales, TX, 78269; Kytex Ind., P.O. Box 17250, Dallas TX 75217.

MC 153292 (Sub-5-1TA), filed December 24, 1980. Applicant: J. E. BUCKNER TRUCKING, a division of J. E. BUCKNER TRUCKS, INC., 1017 Savage Lane, Corpus Christi, TX 78407. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Citrus By-Products, in bulk, from Weslaco, TX to Brownsville, TX. Restricted to shipments having subsequent interstate movement by water or rail. Supporting shipper: Texsun Corporation, P.O. Box 327, Weslaco, TX 78596.*

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 81-424- Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337-TA-69]**

### Certain Airtight Cast-Iron Stoves; Termination of Respondent

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Termination of Crane Industries as party respondent.

**SUPPLEMENTARY INFORMATION:** Upon receipt of a complaint filed on May 23, 1979, the Commission on July 12, 1979, published a notice of institution of the present investigation in the Federal Register (44 FR 40732). That notice stated that the investigation was being undertaken to determine whether respondents' stoves were infringing Jotul's common law trademarks, infringing Jotul's registered U.S. trademarks, being passed off as Jotul's products, or being deceptively advertised and marketed.

On November 24, 1980, the complainants and the Commission investigative attorney moved to terminate respondent Crane Industries because it was no longer doing business. The motion to terminate Crane was unopposed by the other parties to the investigation.

Copies of the Commission's Action and Order, and any other public documents in this investigation are available for inspection by the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone (202) 523–0161.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Neeley, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0359.

By Order of the Commission.

Issued: December 30, 1980.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 81–499 Filed 1–6–81; 8:45 am]

BILLING CODE 7020–02–M

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[Investigation No. 337–TA–92]

## Certain Airtight Wood Stoves; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: December 29, 1980.

**Donald K. Duvall,**

*Chief Administrative Law Judge.*

[FR Doc. 81–503 Filed 1–6–81; 8:45 am]

BILLING CODE 7020–02–M

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[Investigation No. 337–TA–77]

## Certain Computer Forms Feeding Tractors and Components Thereof; Termination of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Termination of investigation based on settlement agreement.

**SUMMARY:** Having reviewed the record in this investigation, including the presiding officer's recommendation, the Commission has voted to grant the parties' joint motion to terminate (motion docket no. 77–7) and is ordering the termination of investigation No. 337–TA–77, Certain Computer Forms Feeding Tractors and Components Thereof. The motion was joined by all parties to the investigation.

**PETITIONS FOR RECONSIDERATION:** Any party wishing to petition for reconsideration of the Commission's action must do so within 14 days of service of the Commission order. Such petitions must be in accord with Commission Rule 210.56 (19 CFR 210.56).

**SUPPLEMENTARY INFORMATION:** On January 10, 1980 the Commission instituted an investigation, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation and sale of certain computer forms feeding tractors and components thereof. The Commission published notice of the institution of its investigation in the **Federal Register** on January 30, 1980 (45 FR 6867). On August 19, 1980, complainant Precision Handling Devices, Inc., respondents Shinshu Seiki Co., Ltd. and Epson America, Inc., and the Commission investigative attorney jointly moved to terminate the investigation on the basis of a settlement agreement entered into by complainant and respondents. The presiding officer recommended that the Commission grant the motion.

The Commission published notice of the proposed settlement agreement in the **Federal Register** on December 6, 1980, and requested comments from the public. No comments adverse to termination were received.

Copies of the Commission's Action and Order, and any other public documents in this investigation are available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0161. The settlement agreement entered into by the parties contains confidential business information subject to a protective order and is not available for public examination.

**FOR FURTHER INFORMATION CONTACT:** Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0143.

By order of the Commission.

Issued: December 30, 1980.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 81–500 Filed 1–6–81; 8:45 am]

BILLING CODE 7020–02–M

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[Investigation No. 337–TA–85]

## Certain Slide Fastener Stringers and Machines and Components Thereof for Producing Such Slide Fastener Stringer; Commission Request for Comments Concerning Motion To Terminate

**AGENCY:** United States International Trade Commission.

**ACTION:** Request for public comment on motion to terminate.

**SUMMARY:** This notice requests public comment on the motion to terminate within thirty (30) days.

**DATES:** Comments will be considered if received within thirty (30) days of this notice. Comments should conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

**SUPPLEMENTARY INFORMATION:** In connection with the Commission's investigation, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation or sale of certain slide fastener stringers and machines and components thereof for producing such slide fastener stringers in the United States, respondents Yoshida Kogyo K.K., YKK Export (USA) Inc., and YKK Export (USA) Inc., (hereafter "YKK"), and the complainant Talon Division of Textron Inc., jointly requested the Commission on December 5, 1980, to terminate the investigation. The Commission investigative attorney joined in the request to terminate. The motion to terminate notes that the patents in issue, U.S. Letters Patent 3,123,103 and U.S. Letters Patent 3,143,779 will expire on March 3, 1981 and August 11, 1981, respectively. The motion further notes that the deadline for completion of this investigation is June 13, 1981. In view of the 60-day period for Presidential review of any Commission determination of violation, the parties argue that effective relief with respect to these patents is impossible, and therefore, that the public interest would not be served by a continuation of this investigation. Copies of the motion to terminate are available for inspection by interested persons in the Office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

**WRITTEN COMMENTS REQUESTED:** In light of the Commission's duty to consider the public interest, the Commission requests written comments from interested

persons and agencies concerning the effect of the termination of this investigation upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. Notice of this investigation was published in the **Federal Register** of June 13, 1980 (45 FR 40242).

**ADDITIONAL INFORMATION:** The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Secretary and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Office of the Secretary.

**FOR FURTHER INFORMATION CONTACT:** Scott Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0480.

By order of the Commission.

Issued: December 31, 1980.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 81-505 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

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[Investigation No. 337-TA-93]

## Certain Universal Joint Kits, Components Thereof, and Trunnion Seals Used Therewith; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: December 31, 1980.

**Donald K. Duvall,**

*Chief Administrative Law Judge.*

[FR Doc. 81-502 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

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[Investigation No. 701-TA-68 (Final)]

## Leather Wearing Apparel From Uruguay

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of a final countervailing duty investigation to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of allegedly subsidized imports from Uruguay of leather wearing apparel, provided for in item 791.76 of the Tariff Schedules of the United States (TSUS).

**EFFECTIVE DATE:** December 12, 1980.

**FOR FURTHER INFORMATION CONTACT:** Robert Eninger, Office of Investigations, (202) 523–0312.

**SUPPLEMENTARY INFORMATION:**

### Background

On October 15, 1980, a petition was filed with the U.S. International Trade Commisson and the U.S. Department of Commerce on behalf of domestic producers of leather wearing apparel alleging that a bounty or grant is being bestowed on leather wearing apparel imported from Uruguay. On November 26, 1980, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 701–TA–68 (Preliminary), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Uruguay of leather wearing apparel, provided for in item 791.76 of the TSUS, which are allegedly being subsidized by the Government of Uruguay. As a result of the Commission's determination, the Department of Commerce (the administering authority) continued its investigation into the question of subsidized sales.

On December 12, 1980, the Department of Commerce made a preliminary determination under section 703(b) of the Tariff Act of 1930 that there is a reasonable basis to believe or suspect that the Government of Uruguay grants to manufacturers, producers, or exporters of certain leather wearing apparel benefits which constitute a subsidy within the meaning of the countervailing duty law. The merchandise covered by the Department of Commerce's investigation is leather wearing apparel currently provided for in TSUS item 791.76. Accordingly, effective December 12, 1980, the Commission instituted investigation No. 701–TA–68 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materialy retarded, by reason of imports of such merchandise. This investigation will be conducted according to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457). The final determination by the Department of Commerce of whether subsidies are being provided by the Government of Uruguay will be made not later than February 25, 1981, unless the investigation is extended.

### Staff report

A staff report containing preliminary findings of fact will be available to all interested parties on February 27, 1981.

### Written submissions

Any person may submit to the Commission on or before March 16, 1981, a written statement of information pertinent to the subject of this investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. All written submissions, except for confidential business data, will be available for public inspection.

Any submission of business information for which confidential treatment is desired shall be submitted separately from other documents. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

### Public hearing

The Commission will hold a public hearing in connection with this investigation on March 18, 1981, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.), March 4, 1981. All persons desiring to appear at the hearing and make oral presentatins must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., e.s.t., on March 5, 1981, in Room 117 at the U.S. International Trade Commission Building. Prehearing statements must be filed on or before March 16, 1981. For further information concerning the conduct of the investigation, hearing procedures, and rules of general applications, consult the Commission's Rules of Practice and Procedure, Part

207, Subarts A and C (19 CFR 207), and Part 201, Subparts A through E (19 CFR 201).

The Commission has waived Commission rule 201.12(d) as amended, "Submission of prepared statements," in connection with this investigation. This rule stated that Copies of witnesses' prepared statements should be filed with the Office of the Secretary of the Commission not later than 3 business days prior to the hearing and submission of such statements shall comply with §§ 201.6 and 201.8 of this subpart." It is, nevertheless, the Commission's request that parties submit copies of witnesses' prepared testimony as early as practicable before the hearing in order to permit Commission review.

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76458).

By order of the Commission.

Issued: December 31, 1980.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 81-501 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

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[332-121]

## Monthly Reports Providing Information on the U.S. Auto Industry

**AGENCY:** United States International Trade Commission.

**ACTION:** At the request of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, and in accordance with the provisions of section 332(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(b)), the Commission has instituted investigation No. 332-121, for the purposes of providing monthly data on the U.S. automobile industry covering November and December 1980, and the first 6 months of 1981. The fact sheet will include data on automobile production, imports, exports, inventories, retail sales, price adjustments, and employment.

**EFFECTIVE DATE:** December 29, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. James McElroy or Ms. Barbara Dudeck, Machinery and Equipment Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436 (Telephone 202-523-0258, 202-523-0131, respectively).

By order of the Commission:

Issued: December 30, 1980.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 81-504 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-364]

## Alabama Power Co.; Issuance of Amendment to Facility License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility License No. NPF-8 issued to Alabama Power Company (the license), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 2 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment grants relief from diesel generator surveillance requirements 4.8.1.1.2.C.7 and part of 4.8.1.2 from initial fuel loading to initial criticality.

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 Commissions 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 this 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 November 18, 1980, (2) Amendment No. 1 to License No. NPF-8, 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 George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of item (2) 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 24th day of December 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

*Chief, Licensing Branch No. 2, Division of Licensing.*

[FR Doc. 81-410 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 50-413]

## Catawba Nuclear Station, Unit 1; Negative Declaration Supporting Amendment No. 1 to CPPR-116 Relating to Change in Ownership Interests

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the request for amendment to Construction Permit CPPR-116 relating to changes in ownership interests in the Catawba Nuclear Station, Unit 1 located in York County, South Carolina. The construction permit was issued to Duke Power Company on August 7, 1975. The amendment would add North Carolina Electric Membership Corporation and Saluda River Electric Cooperative, Inc. as co-owners of Catawba Nuclear Station, Unit 1 with the present owner.

In accordance with 10 CFR Part 51, the Commission's Division of Licensing has prepared an environmental impact appraisal (EIA) for the amendment. The Commission has concluded that an environmental impact statement for this action is not warranted, because there will be no adverse environmental impacts affecting the quality of the human enviroment attributable to the proposed action that would be in addition to those impacts evaluated in the Commission's Final Environmental Statement related to construction of Catawba Nuclear Station, Unit 1, issued in December 1973. A negative declaration is, therefore, appropriate.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document room located at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina. A copy of the EIA may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Licensing.

Dated at Bethesda, Maryland, this 23rd day of December, 1980.

**Frank J. Miraglia,**

*Acting Chief, Licensing Branch No. 3, Division of Licensing.*

[FR Doc. 81-411 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket Nos. 50-250 and 50-251]**

## Florida Power and Light Co.; Availability of Draft Environmental Statement Related to Steam Generator Repair at Turkey Point Plant, Unit Nos. 3 and 4

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0743) prepared by the Commission's Office of Nuclear Reactor Regulation related to steam generator repair at Turkey Point Plant, Unit Nos. 3 and 4, located in Dade County, Florida, is being made available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida. The Draft Statement is also being made available at the State Planning and Development Clearinghouse, Office of Intergovernmental Coordinator, Executive Office of the Governor, The Capitol, Tallahassee, Florida, and at the Metropolitan Dade County Planning Department, Suite 900, 909 S.E. First Avenue, Miami, Florida. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by February 23, 1981. Comments by Federal, State, and local officials, or by other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Environmental and Urban Affairs Library, Florida International University, Miami, Florida. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register.**

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of December, 1980.

For the Nuclear Regulatory Commission.

**Steven A. Varga,**

*Chief, Operating Reactors Branch No. 1, Division of Licensing.*

[FR Doc. 81-412 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

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## International Atomic Energy Agency Draft Safety Guide; Availability for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-D10, "Fuel Handling and Storage Systems in Nuclear Power Plants," has been developed. The Working Group, consisting of Mr. F. Krainer of the Federal Republic of Germany; Mr. S. Rolandson of Sweden; and Mr. R. I. Facer of the United Kingdom of Great Britain and Northern Ireland, developed the initial draft of this Safety Guide from an IAEA collation during a meeting on January 8-19, 1979. The Working Group draft was modified by the IAEA Technical Review Committee in a meeting on April 21-25, 1980, and we are soliciting comments on this modified draft. Comments on this draft received by February 6, 1981, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md., this 22nd day of December 1980.

For the Nuclear Regulatory Commission.

**Ray G. Smith,**

*Acting Director, Office of Standards Development.*

[FR Doc. 81-415 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-548-CP]**

## Omaha Public Power District (Fort Calhoun Station, Unit 2—Application for Construction Permit); Order

December 22, 1980

Upon consideration of Applicant's December 13, 1980, "Request for Withdrawal of Application" and of NRC Staff's response filed on December 3, 1980, it is this 22nd day of December, 1980.

*Ordered*

That the proceeding before this Licensing Board noticed in the Commission's "Hearing on Application for Construction Permit" published in the **Federal Register** on February 19, 1976 (41 FR 7595-97) be *dismissed.*

Dated at Bethesda, Maryland, this 22nd day of December, 1980.

For the Atomic Safety and Licensing Board.

**Robert M. Lazo,**

*Administrative Judge.*

[FR Doc. 81-409 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

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## Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued revisions to two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of

implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits in licenses.

Regulatory Guide 1.84, Revision 17, "Design and Fabrication Code Case Acceptability—ASME Section III Division 1," and Regulatory Guide 1.85, Revision 17, "Materials Code Case Acceptability—ASME Section III Division 1," list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides were revised to update the listings of acceptable code cases and to include the results of additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 23rd day of December 1980.

For the Nuclear Regulatory Commission.

Ray G. Smith,

*Acting Director, Office of Standards Development.*

[FR Doc. 81-416 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

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[Docket Nos. 50-582-CP; 50-583-CP]

## San Diego Gas & Electric Co. (Sundesert Nuclear Plant, Units 1 and 2—Application for Construction Permits); Order

December 22, 1980.

Upon consideration of Applicant's September 11, 1980, "Motion for Termination of Proceeding" and of NRC Staff's response filed on October 15, 1980, it is this 22nd day of December, 1980.

*Ordered*

That the proceeding before this Licensing Board noticed in the Commission's "Hearing on Application for Construction Permits" published in the **Federal Register** on May 9, 1977 (42 FR 23569-71) be *dismissed.*

Dated at Bethesda, Maryland, this 22nd day of December, 1980.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

*Administrative Judge.*

[FR Doc. 81-414 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

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[Docket Nos. STN 50-518, STN 50-519, STN 50-520, STN-521]

## Tennessee Valley Authority; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 4 to Construction Permit Nos. CPPR-150, CPPR-151, CPPR-152, and CPPR-153 issued to the Tennessee Valley Authority for construction of the Hartsville Nuclear Plants, Units A1, A2, B1, and B2, located at the permittee's site in Trousdale and Smith Counties, Tennessee. The amendments reflect deletion of construction monitoring requirements relating to water quality and aquatic biota. The amendments are effective as of the date of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments is a ministerial action required as a matter of law and that an environmental impact assessment need not be prepared.

For further details with respect to this action see (1) the application for amendments dated October 31, 1980, (2) Amendment No. 4 to Construction Permit CPPR-150, (3) Amendment No. 4 to Construction Permit CPPR-151, (4) Amendment No. 4 to Construction Permit CPPR-152, and (5) Amendment No. 4 to Construction Permit CPPR-153. All of these items and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Local Public Document Room located at the Tennessee State Library and Archives, 403 Seventh Avenue, North, Nashville, Tennessee.

A copy of items (2), (3), (4), and (5) 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 29th day of December 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

*Chief, Licensing Branch No. 2, Division of Licensing.*

[FR Doc. 81-413 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

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## SECURITIES AND EXCHANGE COMMISSION

[File No.: 81-643]

## PepsiCo Capital Resources, Inc.; Application and Opportunity for Hearing

December 29, 1980.

Notice is hereby given that PepsiCo Capital Resources, Inc. (the "Applicant"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for exemption from the periodic reporting requirements under Sections 13 and 15(d) of the 1934 Act.

The application states in part:

In the absence of an exemption, Applicant would be required to file periodic reports required by Sections 13 and 15(d) of the 1934 Act.

Applicant believes that the exemptive order it requires is appropriate in view of the fact that it is a wholly-owned subsidiary of PepsiCo, Inc., ("PepsiCo"). The Applicants' sole business purpose is to provide financing for PepsiCo. PepsiCo has and will unconditionally guarantee the payment of the principal and interest of the debt securities issued by Applicant; The debt securities offered by Applicant will be offered based upon the business and financial condition of PepsiCo, which is a reporting company under the 1934 Act.

For a more detailed statement of the information presented all persons are referred to said application which is on file in the Office of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than January 23, 1981, may submit to the Commission in writing his views on 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 receive 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. 81-460 Filed 1-6-81; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF STATE

**[CM-8/358]**

### Oceans and International Environmental and Scientific Affairs Advisory Committee; Partially Closed Meeting

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will meet at 2 p.m. on Monday, January 26, 1981 in Room 1207 of the Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic affairs in the Department of State will discuss key issues and problems involving the Antarctic in the context of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairman. As access to the Department of State is controlled, persons wishing to attend the January 29 meeting should enter the Department through the Diplomatic ("C" Street) Entrance. Department officials will be at the Diplomatic Entrance to escort attendees to Room 1207.

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will also meet on Tuesday, January 27, 1981 at the Watergate Office Building, 2600 Virginia Avenue, NW., in sessions which will not be open to the public. These sessions will be devoted to the discussion of classified material under 5 U.S.C. 552b(c)1 and 5 U.S.C. 552b(c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The purpose of these discussions will be to elicit views concerning the further development of United States policy regarding Antarctic resources, particularly Antarctic mineral resources. This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 12065.

Requests for further information on the meetings should be directed to R. Tucker Scully or Robert A. Monks of OES/OPA, Room 5801, Department of State. They may be reached by telephone on (202) 632-3262.

**Ann Hollick,**

*Executive Secretary.*

December 15, 1980.

[FR Doc. 81-446 Filed 1-6-81; 8:45 am]

BILLING CODE 4710-01-M

**[CM-8/357]**

### Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting on January 15, 1981, Room 8238 at 1:30 p.m. at the Department of Transportation, 400 7th St., SW., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the 23rd Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London, May 11, 1981. In particular, the working group will discuss the following topics:

Survival craft radio equipment.

Operational requirements for future EPIRBs.

Operational standards for shipboard radio equipment.

Maritime distress system.

For further information contact Lt. R. F. Carlson, USCG, (G-OTM-3/32), Washington, D.C. 20593. Telephone (202) 426-1345.

Dated: December 9, 1980.

**James A. Treichel,**

*Acting Chairman, Shipping Coordinating Committee.*

[FR Doc. 81-422 Filed 1-6-81; 8:45 am]

BILLING CODE 4701-07-M

## DEPARTMENT OF THE TREASURY

**[Public Debt Series No. 48-80]**

### Treasury Bonds of 2001

December 23, 1980.

**1. Invitation for Tenders**

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1,500,000,000 of United States securities, designated Treasury Bonds of 2001 (CUSIP No. 912810 CT 3). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

**2. Description of Securities**

2.1. The securities will be dated January 12, 1981, and will bear interest from that date, payable on a semiannual basis on August 15, 1981, and each subsequent 6 months on February 15 and August 15, until the principal becomes payable. They will mature February 15, 2001, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples

of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

**3.1 Sale Procedures**

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, January 6, 1981. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, January 5, 1981.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions of instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 95.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of the tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

**4. Reservations**

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

**5. Payment and Delivery**

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Monday, January 12, 1981. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, January 9, 1981. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

**6. General Provisions**

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

**Paul H. Taylor,**

*Fiscal Assistant Secretary.*

[FR Doc. 81-564 Filed 1-6-81; 8:45 am]

BILLING CODE 4310-10-M

# Sunshine Act Meetings

Federal Register
Vol. 46, No. 4
Wednesday, January 7, 1981

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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### 1

**COMMODITY FUTURES TRADING COMMISSION.**

**TIME AND DATE:** 11 a.m., Friday, January 16, 1981.

**PLACE:** 2033 K Street NW., Washington, D.C., eighth floor conference room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Briefing.

**CONTACT PERSON FOR MORE INFORMATION:** Jane Stuckey, 254-6314.

[S-12-81 Filed 1-5-81; 11:42 am]

BILLING CODE 6351-01-M

### 2

**CONSUMER PRODUCT SAFETY COMMISSION.**

Commission Meeting

**TIME AND DATE:** 9:30 a.m., Thursday, January 8, 1981.

**LOCATION:** Third floor hearing room, 1111 18th Street NW., Washington, D.C.

**STATUS:** Part open, part closed to the public.

**MATTERS TO BE CONSIDERED:** Open to the public:

1. *Benzene: Regulatory Options*
In May, 1978, the Commission proposed a ban of consumer products containing benzene as an intentional ingredient or as a contaminant at a level of 0.1 percent or more. The Commission must publish a final ban or withdraw the proposal by January 15, 1981.
2. *Briefing on Garage Door Openers: Emerging Hazard*
The staff will brief the Commission on its recommendation that the Commission either commence a proceeding to issue a safety standard for automatic garage door operators, or encourage and participate in efforts to upgrade the existing UL voluntary standard.

Closed to the public:

3. *Commission Representation*
The Commission will discuss matters relating to a personnel policy. Closed under exemption 2: internal personnel procedures.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207; telephone: (202) 634-7700.

[S-6-81 Filed 1-5-81; 10:06 am]

BILLING CODE 6355-01-M

### 3

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.**

**TIME AND DATE:** 9:30 a.m. (eastern time), Friday, December 19, 1980.

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** S-2328-80.

**CHANGE IN THE MEETING:** The following item, previously announced as being on the open portion of the agenda was moved to the portion closed to the public:

OFCCP: Department of Labor Regulations Pertaining to Executive Order 11246

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.

**CORRECTION IN PREVIOUS ANNOUNCEMENT:** In favor of change:

Eleanor Holmes Norton, Chair
Daniel E. Leach, Vice Chair
Armando M. Rodriguez, Commissioner.

Abstaining:

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 16, 1980.

[S-14-81 Filed 1-5-81; 3:53 pm]

BILLING CODE 6570-06-M

### 4

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.**

December 31, 1980.

**TIME AND DATE:** 9:30 a.m. (eastern time), Friday, January 9, 1981.

**PLACE:** Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

**STATUS:** Part will be open to the public and part will be closed to the public.

**MATTERS TO BE CONSIDERED:**

1. Contract with United Sioux Tribes of South Dakota Development Corp. as a TERO [this is simply a name change].
2. Proposed Procedural Regulations pursuant to the Age Discrimination in Employment Act (29 CFR Part 1626).
3. Proposed Revision of Interpretations of the Equal Pay Act (29 CFR Part 1620).
4. Section 717 Multi-Year Affirmative Action Programs.
5. Section 501 Transition Year Accomplishment Reports.
6. Report on Commission Operations by the Executive Director:
1. Litigation Authorization: General Counsel Recommendations.

**Note.**—Any matter not discussed or concluded may be carried over to a later meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued: December 31, 1980.

[S-15-81 Filed 1-5-81; 3:54 pm]

BILLING CODE 6570-06-M

### 5

**FEDERAL DEPOSIT INSURANCE CORPORATION.**

Pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 5:40 p.m. on Wednesday, December 31, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in East Gadsden Bank, Gadsden, Alabama, which was closed December 31, 1980; (2) accept the bid for the transaction submitted by Central Bank of Alabama, National Association, Decatur, Alabama; (3) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction; and (4) appoint a liquidator for such of the assets of the closed bank as were not purchased by Central Bank of Alabama, National Association.

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptoller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 2, 1981.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[S-5-81 Filed 1-2-81; 4:44 pm]

BILLING CODE 6714-01-M

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6

**FEDERAL DEPOSIT INSURANCE CORPORATION.**

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 12, 1981, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Amendments to Part 326 of the Corporation's rules and regulations, entitled "Minimum Security Devices and Procedures for Insured Nonmember Banks," to eliminate the requirement for submission of certain reports on security devices.

Requests by the Comptroller of the Currency for reports on the competitive factors involved in proposed mergers:

The State National Bank of New Iberia, New Iberia, Louisiana, and Sugarland State Bank, Jeanerette, Louisiana.

First National Bank of Holmes County, Lexington, Mississippi, and Merchants & Planters Bank, Tchula, Mississippi.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 5, 1981.

Federal Deposit Insurance Corporation

**Hoyle L. Robinson,**

*Executive Secretary.*

[S-9-81 Filed 1-5-81; 11:00 am]

BILLING CODE 6714-01-M

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7

**FEDERAL DEPOSIT INSURANCE CORPORATION.**

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 12, 1981, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure prusuant to the provisions of subsections (c)(6), (c)(8), (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 5, 1981.

Federal Deposit Insurance Corporation

**Hoyle L. Robinson,**

*Executive Secretary.*

[S-10-81 Filed 1-5-81; 11:00 am]

BILLING CODE 6714-01-M

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8

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.**

December 31, 1980.

**TIME AND DATE:** 10 a.m., Wednesday, January 7, 1981.

**PLACE:** Room 600, 1730 K Street, NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following:

1. Lone Star Industries, Docket No. VA 80-67-M. (petition for Discretionary Review; issues include interpretation and application of 30 CFR § 56.9-41)

2. Carolina Stalite Company, Docket Nos. BARB 79-319-PM, etc. (Petition for Discretionary Review; issues include whether operation is a mine subject to the 1977 Mine Act, and whether Fourth Amendment warrant provision applies to inspections under the 1977 Mine Act.)

3. United States Steel Corporation, Docket No. HOPE 75-708, IBMA 77-40. (Issues include whether there was a "complete" inspection prior to issuance of an order under section 104(c)(2) of the 1969 Coal Act.)

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, 202-653-5632.

[S-13-81 Filed 1-5-81; 2:32 pm]

BILLING CODE 6820-12-M

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9

**FEDERAL RESERVE SYSTEM.**

(Board of Governors)

**TIME AND DATE:** 10 a.m., Monday, January 12, 1981.

**PLACE:** 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: January 2, 1981.

**James Macafee,**

*Assistant Secretary.*

[S-6-81 Filed 1-2-81; 5:07 pm]

BILLING CODE 6210-01-M

federal register

Wednesday
January 7, 1981

Part II

# Environmental Protection Agency

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

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 420**

**[WH-FRL 1697-4]**

# Iron and Steel Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed regulation.

**SUMMARY:** EPA proposes a regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in manufacturing steel. The Clean Water Act and a consent decree require EPA to issue this regulation.

The purpose of this proposal is to provide effluent limitations for "best practicable technology," "best available technology," "best conventional technology," and to establish new source performance standards and pretreatment standards. After considering comments received in response to this proposal, EPA will promulgate a final rule.

**DATES:** Comments on this proposal must be submitted on or before March 9, 1981.

**ADDRESS:** Send comments to: Mr. Ernst P. Hall, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, ATTENTION: EGD Docket Clerk, PROPOSED IRON AND STEELMAKING RULES (WH-552).

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library). The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Technical information and copies of technical documents may be obtained from Mr. Ernst P. Hall, at 426-2726 at the address listed above. The economic analysis may be obtained from the Office of Planning and Evaluation (PM 220), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

**SUPPLEMENTARY INFORMATION:**

Organization of This Notice

I. Legal Authority
II. Background
  A. The Clean Water Act
  B. Prior EPA Regulations
  C. Overview of the Industry
III. Scope of this Rulemaking and Summary of Methodology
IV. Data Gathering Efforts
V. Sampling and Analytical Program
VI. Industry Subcategorization
VII. Available Wastewater Control and Treatment Technology
  A. Status of In-Place Technology
  B. Control Technologies Considered
VIII. Best Practicable Technology (BPT) Effluent Limitations
IX. Best Available Technology (BAT) Effluent Limitations
X. New Source Performance Standards (NSPS)
XI. Pretreatment Standards for Existing Sources (PSES)
XII. Pretreatment Standards for New Sources (PSNS)
XIII. Best Conventional Technology (BCT) Effluent Limitations
XIV. Regulated Pollutants
XV. Pollutants and Subcategories Not Regulated
XVI. Monitoring Recommendations and Requirements
XVII. Costs, Effluent Reduction Benefits, and Economic Impacts
XVIII. Nonwater Quality Aspects of Pollution Control
XIX. Best Management Practices (BMPs)
XX. Upset and Bypass Provisions
XXI. Variances and Modifications
XXII. Relationships to NPDES Permits
XXIII. Summary of Public Participation
XXIV. Solicitation of Comments
XXV. Appendices:
  A. Abbreviations, Acronyms, and Terms Used in This Notice
  B. Development of Regulated Pollutant List
  C. Pollutants Considered for Specific Limitation by Subcategory

## I. Legal Authority

The regulation described in this notice is proposed under authority of Sections 301, 304, 306, 307, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC §§ 1251 *et seq.*, as amended by the Clean Water Act of 1977, P.L. 92-517) (the "Act"). This regulation is also proposed in compliance with the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C 1976), modified, 12 ERC 1833 (D.D.C. 1979).

## II. Background

### *The Clean Water Act*

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT"), Section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable . . . which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"). Section 301(b)(2)(A). New industrial direct dischargers were required to comply with Section 306 new source performance standards ("NSPS"), based upon best available demonstrated technology; and new and existing dischargers to publicly owned treatment works ("POTWs") were subject to pretreatment standards under Sections 307 (b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under Section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTWs (indirect dischargers).

Although Section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based upon regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, Sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and Sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, Section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

The EPA was unable to promulgate many of these regulations by the dates specified in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement," which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule to promulgate, for 21 major industries, BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. *See Natural*

*Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified, 12 ERC 1833 (D.D.C. 1979).

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is the incorporation into the Act of several basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984 of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 301(b) of the Act. Likewise, the EPA programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Congress added Section 304(e) to the Act, authorizing the Administrator to prescribe "best management practices" ("BMPs") to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revises the control program for nontoxic pollutants. Instead of BAT for "conventional" pollutants identified under Section 304(a)(4) (including total suspended solids, biological oxygen demand, oil and grease and, fecal coliform, and pH), the new Section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" ("BCT"). The factors considered in assessing BCT for an industry include the costs of attaining a reduction in effluents and the effluent reduction benefits derived compared to the costs and effluent reduction benefits from the discharge of publicly owned treatment works [Section 304(b)(4)(B)]. For nontoxic, nonconventional pollutants, Sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of this proposed regulation is to provide effluent limitations for BPT, BAT, and BCT, and to establish NSPS, pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS), under Sections 301, 304, 306, 307, and 501 of the Clean Water Act.

*Prior EPA Regulations*

On June 28, 1974, EPA promulgated effluent limitations guidelines for BPT and BAT, NSPS, and PSNS for the basic steelmaking operations (Phase I) within the integrated steel industry. 39 FR 24114–24133, 40 CFR Part 420, Subparts A-L, that regulation covered 12 subcategories of the industry: By-Product Cokemaking, Beehive Cokemaking, Sintering, Blast Furnace (Iron), Blast Furnace (Ferromanganese), Basic Oxygen Furnace (Semi-Wet Air Pollution Control Methods), Basic Oxygen Furnace (Wet Air Pollution Control Methods), Open Hearth Furnace, Electric Arc Furnace (Semi-Wet Air Pollution Control Methods), Vacuum Degassing, and Continuous Casting.

In response to several petitions for review, the United States Court of Appeals for the Third Circuit remanded that regulation to the Agency on November 7, 1975. *American Iron and Steel Institute, et al.* v. *EPA*, 526 F.2d 1027 (3rd Cir. 1975) ("AISI I"). While the Court rejected all technical challenges to the BPT limitations, it held that the BAT effluent limitations and NSPS for certain subcategories were "not demonstrated." In addition, the court questioned all of the regulation on the grounds that EPA had failed to consider adequately the impact of plant age on the cost or feasibility of retrofitting pollution control equipment, to assess the impact of the regulations on water scarcity in arid and semi-arid regions of the country, and to make adequate "net/gross' provisions for pollutants found in intake water supplies.[1]

On March 29, 1976, EPA promulgated BPT effluent limitations guidelines and proposed BAT limitations, NSPS and PSNS for steel forming and finishing operations (Phase II) within the iron and steel industry. 39 FR 12990–13030, 40 CFR Part 420, Subparts M–Z. That regulation covered 14 subcategories of the industry: Hot Forming—Primary; Hot Forming—Section; Hot Forming—Flat; Hot Forming—Pipe & Tube; Pickling—Sulfuric Acid—Batch and Continuous; Pickling—Hydrochloric Acid—Batch and Continuous; Cold Rolling; Hot Coatings—Galvanizing; Hot Coatings—Terne; Miscellaneous Runoffs—Storage Piles, Casting, and Slagging; Combination Acid Pickling—Batch and Continuous; Scale Removal—Kolene and Hydride; Wire Pickling and Coating; and Continuous Alkaline Cleaning.

In response to several petitions for review, the U.S. Court of Appeals for the Third Circuit remanded the regulation to the Agency on September 14, 1977, *American Iron and Steel Institute, et al.* v. *EPA*, 568 F2d 284 (3d Cir. 1977). While the court again rejected all technical challenges to the BPT limitations, it again questioned the regulation in regard to the age/retrofit and water scarcity issues. In addition, the court invalidated the regulation as applied to the specialty steel industry for lack of proper notice. Finally, the Court directed EPA to reevaluate its estimates of the cost of compliance with the regulation in light of certain "site-specific" factors and to reexamine its economic impact analysis.[2]

On June 26, 1978 the Agency promulgated General Pretreatment Regulations applicable to existing and new indirect dischargers within the steel industry and other major industries. 43 FR 27936–2773 (40 CFR Part 403). Those regulations are currently in effect.

*Overview of the Industry*

The steel industry is included within the United States Department of Commerce, Bureau of the Census Standard Industrial classification (SIC) Major Group 33—Primary Metal Industries. Those parts of the industry covered by this regulation are the subgroup SIC Nos. 3312, (except coil coatings) 3315, 3316, and 3317. These include all processes, subprocesses, and alternate processes involved in the manufacture of intermediate or finished products in the above categories.

The manufacture of steel involves many processes which require large quantities of raw material and other resources. Steel facilities range from comparatively small plants engaging in one or more production processes to extremely large integrated complexes engaging in several or all production processes. Even the smallest steel facility, however, represents a fairly large industrial complex. Because of the wide variety of products and processes in this industry, operations vary from plant to plant.

The 1978 revenues of the United States steel industry were about 46 billion dollars. The industry ranks third

[1] The court also held that the "form" of the regulations was improper, because they did not provide "ranges" of limitations to be selected by permit issuers. This holding, however, was recalled in *American Iron and Steel Institute, et al.* v. *EPA*, 560 F.2d 589 (3d Cir. 1977).

[2] The court also held that EPA had no statutory authority to exempt plants in the Mahoning Valley region of Eastern Ohio from compliance with the BPT regulations.

in the nation behind the automotive and petroleum industries in the values of its total shipments; and, with about 500,000 employees, is second only to the automotive industry in the number of employees.

Fifteen steel corporations provided approximately 87% of the total annual U.S. steel ingot production. U.S. steel production represents about 15% of world production.

The steel industry can be segregated into two major components: raw steelmaking; and forming and finishing operations. The Agency estimates that there are about 680 plant locations containing over two thousand individual steelmaking and forming and finishing operations. A listing of these plants is contained in the Appendix B to Volume I of the technical Development Document.

In the first major process, coal is converted to coke which is then combined with iron ore and limestone in a blast furnace to produce iron. The iron is then purified into steel in either open hearth, basic oxygen, or electric arc furnaces. Finally, the steel can be further refined by vacuum degassing.

Following the steelmaking processes are the hot forming (including continuous casting) and cold finishing operations. These operations are so varied that a simple classification and description is difficult. In general, hot forming primary mills reduce steel ingots to slabs or blooms and secondary hot forming mills reduce slabs or blooms to billets, plates, shapes, strip, and various other products. Steel finishing operations involve a number of other processes that do little to alter the dimensions of the hot rolled product, but which impart desirable surface or mechanical properties.

Water is essential to the industry and is used in appreciable quantities in virtually all process operations. An average of 40,000 gallons of water is used in the production of every ton of finished steel, making the industry one of the highest water users of any manufacturing industry.

The following wastewater pollutants have historically been regulated in the steel industry: suspended solids, ammonia-N, fluoride, cyanide, phenols, oil and grease, iron, total and hexavalent chromium, tin, lead, and zinc. The discharge of these pollutants is limited by this regulation. Other pollutants, such as chloride, are found in the industry's wastewaters. However, the Agency is not proposing limitations for those pollutants in this regulation because the technology for their removal is presently considered to be beyond the scope of best practicable or best available technology for this industry.

In addition to the pollutants known to be present in steel industry wastewaters, many other pollutants became subject to consideration as a result of the NRDC/EPA Settlement Agreement noted earlier. The original list of 65 pollutant classes was defined more specifically by selecting definite compounds within each class to facilitate analytical qualification and quantification and to serve as indicators for other members of the classes. The list of 129 specific toxic pollutants was therefore developed.

### III. Scope of This Rulemaking and Summary of Methodology

This proposed regulation expands the water pollution control requirements for the steel industry. In EPA's prior regulations, emphasis was placed on the achievement of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well-known technologies for control of familiar (i.e., "classical") pollutants.

In contrast, EPA's efforts are now directed toward insuring the achievement by July 1, 1984, of the best available technology economically achievable, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. At a minimum, this technology level represents the best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of toxic substances.

EPA's implementation of the Act required a complex investigation, described in this section and succeeding sections of this notice. EPA and its laboratories and consultants had to develop analytical methods for toxic pollutant detection and measurement, which are discussed under Sampling and analytical Program. EPA then gathered technical and financial data about the industry, which are summarized under Data Gathering Efforts.

EPA studied the steel industry to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water usage, wastewater constituents, or other factors required the development of separate effluent limitations and standards for different segments of the industry. This study included the identification of raw waste and treated effluent characteristics, including: (1) the sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters in the plant, and (2) the constituents of wastewaters, including toxic pollutants (See Industry Subcategorization for further discussion). EPA identified the pollutants which are being considered for effluent limitations and standards of performance, and statistically analyzed raw waste constituents, as discussed in detail in Section V of the Development Documents for the various subcategories.

EPA identified several distinct control and treatment technologies, including both in-plant and end-of-process technologies, which are in use or are capable of being used in the steel industry. The Agency compiled and analyzed historical data and newly generated effluent quality data resulting from the application of these technologies. The long-term performance, operational limitations, and reliability of each of the treatment and control technologies were also identified. In addition, EPA considered the nonwater quality environmental impacts of these technologies, including impacts on air quality, solid waste generation, water scarcity, and energy requirements.

The Agency estimated the cost of each control and treatment technology by using standard engineering analysis as applied to the applicable wastewater characteristics. EPA derived unit process costs from model plant characteristics (production and flow) applied to each treatment process (i.e., primary coagulation-sedimentation, activated sludge, multi-media filtration). These unit process costs were added to yield the total costs for each treatment level. After confirming the reasonableness of this methodology by comparing EPA cost estimates to actual treatment system costs reported by the industry, the Agency evaluated the economic impacts of these costs. (Costs are reviewed in each subcategory report of the Development Document. Economic impacts are reviewed in the section of this notice entitled Costs, Effluent Reduction Benefits, and Economic Impacts.)

Upon consideration of these factors, as more fully described below, EPA identified various control and treatment technologies including the BPT, BCT, BAT, PSES, PSNS, and NSPS model treatment systems. The proposed regulation, however, does not require the installation of any particular

technology. Rather, it requires the achievement of effluent limitations representative of the proper operation of these technologies or equivalent technologies.

The proposed effluent limitations for BPT, BCT, BAT, PSES, and PSNS, and NSPS are expressed as mass limitations (lbs/1000 lbs) of product and are calculated by multiplying four figures: (1) effluent concentrations determined from analysis of control technology performance data, (2) wastewater discharge flow for each subcategory, (3) any relevant process or treatment variability factor (e.g., maximum month vs. maximum day), and (4) the appropriate conversion factor. This basic calculation was performed for each regulated pollutant in each subcategory of the industry.

In reevaluting the previously promulgated BPT limitations in light of the Third Circuit's decisions, EPA found that in most instances those limitations are well demonstrated and, in some instances, are less stringent than could be currently justified.

## IV. Data Gathering Efforts

Before initiating this study, EPA reviewed the original Development Documents and appendices.[3] The Agency concluded that additional data were required to respond to the Third Circuit's ruling in *AISI I* and *AISI II* and to develop regulations in accordance with both the Clean Water Act and the *NDRC* v *Train* Settlement Agreement.

The Agency sent Data Collection Portfolios (DCPs) to *all* basic steelmaking operations and to approximately 85% of the steel forming and finishing operations in the United States. The DCPs requested information concerning production processes, production capacity and rates, process water usage, wastewater generation rates, wastewater treatment and disposal methods, treatment costs, location, age of production and treatment facilities, as well as general analytical information. The Agency received responses from 393 steelmaking operations and from 1631 steel forming and finishing operations.

The Agency also sent Detailed Data Collection Portfolios (D–DCPs), under the authority of Section 308 of the Act, to 50 steelmaking facilities and 128 forming and finishing facilities. The D–DCPs requested detailed information concerning the cost of installing pollution control equipment including capital, annual and retrofit costs. The D–DCPs also requested long-term analytical data and data regarding specific production operations.

The Agency determined the presence and magnitude of the 129 specific toxic pollutants in steel industry wastewaters in a two-part sampling and analysis program involving 31 steelmaking facilities and 83 forming and finishing facilities.

The Agency obtained data not only from previous studies, questionnaire responses, and sampling visits, but also from NPDES permit files, contacts with pollutant control equipment suppliers, treatability studies, and literature searches. The data gathering program solicited all known sources of data. All available information was used in developing the proposed regulation.

## V. Sampling and Analytical Program

The sampling and analysis program for this rulemaking concentrated on the toxic pollutants designated in the Clean Water Act. However, conventional and nonconventional pollutants were also studied. Although it was expected that, except for cokemaking, toxic pollutants in the steel industry would be inorganic rather than organic, the wasteswaters from this industry were sampled and analyzed for the presence of toxic organic pollutants. The Agency has not promulgated analytical methods for many of the organic toxic pollutants under Section 304(h) of the Act, although a number of these methods have been proposed (44 FR 69464, December 3, 1979; 44 FR 75028, December 18, 1979). Additional information on the development of sampling and analytical methods for toxic organic pollutants is contained in the preamble to the proposed regulation for the Leather Tanning Point Source Category, 40 CFR Part 425, 44 FR 38749, dated July 2, 1979.

Before analyzing steel industry wastewaters EPA concluded that it had to specify specific toxic pollutants for analysis. The list of 65 pollutants and classes of pollutants potentially includes thousands of specific pollutants; analyses for all of them would overwhelm private and government laboratory resources. In order to make the task more manageable, EPA selected pollutants for study in this and other industry rulemakings. The criteria for choosing these pollutants included the frequency of their occurrence in water, their chemical stability and structure, the amount of the chemical produced, and the availability of chemical standards for measurement.

EPA checked for the presence and magnitude of the 129 pollutants in steel industry wastewaters in a two-phase sampling and analysis program. The Agency selected plants for sampling which it believed were representative of the manufacturing processes, the prevalent mix of production among plants, and the current treatment technology in the industry. During the first phase of the program EPA sampled ten steelmaking facilities and eleven forming and finishing facilities. During the second phase of the program, EPA sampled 21 steelmaking facilities and 72 forming and finishing facilities.

The primary objective of the field sampling program was to obtain composite samples of wastewater from which to determine the concentrations of toxic pollutants. Sampling visits were made during two to three consecutive days of plant operation, with raw wastewater samples taken either before treatment or after minimal preliminary treatment. Treated effluent samples were taken following application of in-place treatment technologies. EPA also sampled intake water to determine the presence of toxic pollutants prior to contamination by steelmaking processes.

During the first phase of the sampling program the Agency detected and quantified wastewater constituents included on the list of 129 toxic pollutants. Wherever possible, each sample of an individual raw waste stream, a combined waste stream, or a treated effluent was collected by an automatic, time series sample compositor over 2 to 3 consecutive 24 hour sampling periods. Where automatic compositing was not possible, grab samples were taken and composited manually. The purpose of the second phase of the sampling program was to confirm the presence and further quantify the concentrations and waste loadings of the toxic pollutants found during the first phase of the program.

EPA used the analytical techniques described in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, revised April, 1977. Very similar methods are found among those proposed on December 3, 1979. EPA did not find significant quantities of toxic organic pollutants in most steelmaking wastewaters. The exceptions are cokemaking and cold rolling wastewaters.

Metals analyses for the Phase I operations were by inductively coupled plasma optical emission spectrometry except that the standard flameless

[3] See *EPA* 440/1–74–024a: Development Document for Effluent Limitation Guidelines and New Source Performance Standards for the Steelmaking Segment of the Iron and Steel Manufacturing Point Source Category, June, 1974; and EPA 440/1–76/048–d: Development Document for Interim Final Effluent Limitations Guidelines and Proposed New Source Performance Standards for the Forming, Finishing, and Specialty Steel Segments of the Iron and Steel Manufacturing Point Source Category, March, 1976.

atomic adsorption method was used for mercury analyses. Metals analyses for the Phase II operations were by a combination of flame and flameless atomic adsorption methods.

Analyses for cyanide and cyanide amendable to chlorination were also performed using 304(h) methods.

Analysis for asbestos fibers included transmission electron microscopy with selected area defraction; results were reported as chrysotile fiber count.

Analyses for conventional pollutants (BOD5, TSS, pH, and oil and grease) and nonconventional pollutants (total residual chlorine, iron, ammonia, fluoride, and COD) were performed using 304(h) methods.

**VI. Industry Subcategorization**

In developing this proposed regulation, the Agency determined that different effluent limitations and standards should be developed for distinct segments or subcategories of the steel industry. The Agency's consideration of industry subcategorization included an examination of the same factors and rationale described in its previous studies and the issues raised by the court in *AISI I* and *AISI II*. These factors are:

1. Manufacturing processes and equipment
2. Raw materials
3. Final products
4. Wastewater characteristics
5. Wastewater treatability
6. Size and age of facilities
7. Geographic location
8. Process water usage and discharge rates
9. Costs and economic impacts
10. Non-water quality environmental impacts

Based upon these factors, the Agency has decided to retain the same approach to subcategorization as outlined in previous regulations which is based primarily upon the various manufacturing processes in the steel industry. The Agency found that manufacturing process is the most significant factor and divided the industry into 12 main process subcategories on this basis. Section IV of Volume I of the Development Document contains a detailed discussion of the factors considered and the rationale for selecting the subcategories. The Agency determined that process based subcategorization is warranted in many cases because the wastewaters of the various processes contain different pollutants, requiring treatment by different control systems (e.g., phenol by biological systems in cokemaking and metals by precipitation in steelmaking). However, in some cases, the wastewaters of different processes were found to contain similar characteristics. In those instances, the Agency determined that subcategorization was appropriate because the process water usage and discharge flow rates varied so widely. A more detailed discussion of this issue is presented in Volume I of the development document.

The subcategories of the steel industry are as follows:

(1) Subpart A—Cokemaking Subcategory

Cokemaking operations involve the production of coke in by-product or beehive ovens. The production of metallurgical coke is an essential part of the steel industry, since coke is one of the basic raw materials necessary for the operation of ironmaking blast furnaces.

(2) Subpart B—Sintering Subcategory

Sintering operations involve the production of an agglomerate which is then used as a raw material in iron and steelmaking processes. This agglomerate (or "sinter") is made up of large quantites of waste particulate matter (fines, mill scale, and flue dust) which have been generated by blast furnaces, open hearth furnaces, basic oxygen furnaces, and recovered from hot forming operations.

(3) Subpart C—Ironmaking Subcategory

Ironmaking operations involve the conversion of iron bearing materials, limestone, and coke into molten iron in a reducing atmosphere in tall cylindrical (blast) furnaces.

(4) Subpart D—Steelmaking Subcategory

Steelmaking operations involve the production of steel in basic oxygen, open hearth, and electric arc furnaces from molten iron and steel scrap materials.

(5) Subpart E—Vacuum Degassing Subcategory

This operation involves the removal of gaseous material (deoxidation) from molten steel by applying a vacuum to the molten steel.

(6) Subpart F—Continuous Casting Subcategory

This operation involves the continuous formation of a primary steel shape (i.e., slab, billet, or bloom) from molten steel by casting the molten steel through a water-cooled mold.

(7) Subpart G—Hot Forming Subcategory

Hot forming is the steel forming process in which hot steel, in solid ingot form, is reduced in size during a series of forming steps into finished and semi-finished steel products.

(8) Subpart H—Scale Removal Subcategory

Scale removal from specialty steels is accomplished by immersing the steel in molten salt baths of kolene or hydride compounds.

(9) Subpart I—Acid Pickling Subcategory

Acid pickling is the process of chemically removing oxides and scale from the surface of steel using dilute inorganic acids.

(10) Subpart J—Cold Forming Subcategory

In cold forming operations, steel products are formed or reduced in thickness or size, or acted upon to produce a smooth surface or to control the mechanical properties of the metal. Rolling solutions are used in cold forming to cool and lubricate the product during the reduction operation.

(11) Subpart K—Alkaline Cleaning Subcategory

This operation involves the removal of rolling oil or other materials from the surface of steel products prior to further processing. The removal can be enhanced by the electrolysis of the steel in an alkaline solution.

(12) Subpart L—Hot Coating Subcategory

In the hot coating process, clean steel products are immersed in baths of various molten metals to deposit a thin layer of the metal on the product surface.

**VII. Available Wastewater Control and Treatment Technology**

*A. Status of In-Place Technology*

There are many different treatment technologies currently employed in the steel industry. Generally, primary wastewater treatment systems rely upon physical/chemical methods of treatment, including neutralization, sedimentation, flocculation and filtration. Treatment for toxic pollutants require adviced technologies such as biological treatment, carbon adsorption, ion exchange, reverse osmosis, and more sophisticated chemical techniques.

Within the cokemaking segment of the steel industry, organic pollutant removal is accomplished by biological treatment

in bio-oxidation lagoons and activated sludge plants, and, physical/chemical treatment in ammonia stills, dephenolizers and activated carbon systems. Sedimentation and filtration techniques are employed as well in this subcategory.

Treatment facilities at plants in the sintering, ironmaking and steelmaking subcategories rely heavily upon sedimentation and flocculation techniques. Clarifiers and thickeners are principally used in connection with polymers and coagulants such as lime, alum, and ferric sulfate.

Wastewater from nearly all hot forming operations are treated in scale pits followed by lagoons, clarifiers, filters, or combinations thereof. Polymers and coagulants such as lime, alum, and ferric sulfate are normally used in conjunction with clarifiers. Filters are usually either gravity or pressure types with sand or other media.

Cold finishing treatment techniques include equalization prior to further treatment; neutralization with lime, caustic or acid; flocculation with polymer; and, sedimentation. Central or combined treatment systems are common for these operations.

Another important treatment method commonly practiced in the steel industry is recycle of treated wastewaters. Recycle can be effectively used to significantly reduce wastewater flows and the amount of pollutants discharged to receiving streams. Systems employing high rates of recycle are demonstrated in several subcategories of the steel industry.

*B. Advanced Technologies Considered*

The Agency considered advanced treatment systems to control the level of toxic and non-conventional pollutants at the BAT, NSPS, PSES, and PSNS levels of treatment. Some of these include in-plant control, however, most include the installation of additional end-of-pipe treatment components.

In-plant control is demonstrated in several subcategories and has been incorporated, where appropriated, into the model BAT, BCT, NSPS, PSES, and PSNS treatment systems. In pickling operations, cascade rinse systems reduce the volume of rinse flow discharged by up to 95%, and are included into the model BAT, BCT, NSPS, PSES and PSNS treatment systems.

The Agency also considered other in-plant control measures such as reducing wastewater generation rates and process modifications. These control measures are highly subcategory specific and are discussed in detail in the respective subcategory reports.

Add-on technology to BPT was considered for the BAT, NSPS, PSES, and PSNS levels of treatment in most of the subcategories. Some of these control measures for the toxic pollutants include two-stage (i.e. extended) biological treatment (cokemaking); granular activated carbon; powdered carbon addition; pressure filtration; pressure filtration accompanied with sulfide addition; and, multi-stage evaporation/condensation systems. Details on these advanced systems are presented in Section VI of volume I of the Development Document.

**VIII. Best Practicable Technology (BPT) Effluent Limitations**

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of application of technology in relation to the effluent reduction benefits from such application, the age of equipment and facilities involved, the process employed, nonwater quality environmental impacts (including energy requirements) and other factors the Administrator considers appropriate. In general, the BPT technology level represents the average of the best existing performances of plants of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or industry. Limitations based upon transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits. See *Tanners' Council of America* v. *Train*, 540 F2d 1188 (4th Cir. 1976). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where the process changes are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which does not require the Agency to quantify benefits in monetary terms. See, e.g., *AISI I, supra*. In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impact of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. Therefore, EPA has not considered these factors. See *Weyerhaeuser Company* v. *Costle*, 590 F 2d 1011 (D.C. Cir. 1978).

A detailed discussion of the bases for selecting the proposed BPT effluent limitations is set forth in Section IX of each subcategory report of the Development Document. The components of the BPT model treatment systems are presented in Appendix D.

**IX. Best Available Technology (BAT) Effluent Limitations**

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, nonwater quality environmental impacts (including energy requirements) and the costs of application of such technology (Section 304(b)(2)(B)). In general, the BAT technology level represents, at a minimum, the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. As with BPT, where existing performance is uniformly inadequate, BAT may be transferred from a different industry or subcategory. BAT may include process changes or internal controls, even when not common industry practice.

The statutory assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra*). In developing the proposed BAT limitations, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impact of the required pollution control levels.

Despite this expanded consideration of costs, the primary determinant of BAT is effluent reduction capability. As a result of the Clean Water Act of 1977, the achievement of BAT has become the principal national means of controlling toxic water pollution. The steel industry discharges over forty different toxic pollutants. EPA considered two to five alternative BAT treatment systems for each subcategory which can reduce the discharge of toxic pollutants by over 90% from BPT levels. A detailed discussion of the bases for selecting the proposed BAT effluent limitations is set forth in Section X of each subcategory report of the Development Document. The components of the BAT model treatment systems are presented in Appendix D.

### X. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology. Industry has the opportunity to design the best and most efficient steelmaking processes and wastewater treatment technologies for new plants. Congress therefore directed EPA to consider the best demonstrated process changes, in- plant controls, and end-of-pipe treatment technologies which reduce pollution to the maximum extent feasible. EPA considered two to four alternative treatment systems for each subcategory in selecting proposed NSPS.

A detailed discussion of the bases for selecting the proposed new source performance standards is set forth in Seciton XII of each subcategory report of the Development Document. The components of the NSPS model treatment systems are presented in Appendix D.

### XI. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which must be achieved within three years of promulgation. PSES are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of Publicly Owned Treatment Works (POTWs). The Clean Water Act of 1977 adds a new dimension by requiring pretreatment for pollutants, such as toxic metals, that pass through POTWs in amounts that would exceed direct discharge effluent limitations or limit POTW sludge management alternatives, including the beneficial use of sludges on agricultural lands. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based and analogous to the best available technology for removal of toxic pollutants. The general pretreatment regulations (40 CFR Part 403), which served as the framework for the proposed pretreatment standards for the steel industry, can be found at 43 FR 27736 (June 26, 1978).

EPA has determined that many of the metals present in the steel industry's raw wastewaters pass through POTWs, may limit POTW sludge disposal alternatives and can interfere with biological treatment in the POTW. These metals include: antimony, arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc.

Accordingly, EPA is proposing pretreatment standards for metals and other toxic and non-conventional pollutants in this proposed regulation. In addition to the factors discussed above, EPA considered the following factors in developing the proposed pretreatment standards:

1. The manufacturing processes employed by the industry;
2. The age and size of the equipment and facilities involved;
3. The location of manufacturing facilities;
4. Process changes;
5. The engineering aspects of the application of pretreatment technology and its relationship to the POTW;
6. The cost of application of technology in relation to the effluent reduction and other benefits achieved from such application; and,
7. Nonwater quality environmental impact (including energy requirements).

The methodology used to develop the effluent limitations is the same as that used to develop the direct discharger limitations. A detailed discussion of the bases for selecting the proposed pretreatment standards for existing sources is set forth in Section XIII of each subcategory report of the Development Document. The components of the PSES model treatment systems are presented in Appendix D.

### XII. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation. The Agency is proposing PSNS based on the same considerations discussed in Section XI relating PSES.

A detailed discussion of the bases for selecting the proposed pretratment standards for new sources is set forth in Section XIII of each subcategory report of the Development Document. The components of the PSNS model treatment systems are presented in Appendix D.

### XIII. Best Conventional Technology (BCT) Effluent Limitations

The 1977 amendments added Section 301(b)(4)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(b)(4)—BOD, TSS, fecal coliform, and pH—and any additional pollutants defined by the Administrator as "conventional." On July 30, 1979, the Agency added oil and grease as a conventional pollutant (44 FR 44501).

BCT is not an additional limitation, but replaces BAT for the control of conventional pollutants. BCT requires that limitations for conventional pollutants be assessed in light of a new "cost-reasonableness" test, which involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources. In its review of BAT for "secondary" industries, the Agency established BCT levels based upon a methodology described at 44 FR 50732 (Aug. 29, 1979). This methodology compares removal costs (dollars per pound of pollutant, measuring from BPT to BCT) with costs for an average POTW. The removal costs of an average POTW has been established by EPA as $1.34 per pound in July, 1978 dollars.

Where the removal costs of industry are less than the removal costs of an average POTW, the Agency has found the costs to be reasonable and is proposing limitations based upon BCT. In other subcategories where conventional pollutant removal costs exceeded this cost, the Agency is proposing BCT limitations which are equal to the proposed BPT limitations for conventional pollutants. A detailed discussion of the bases for selecting the best conventional technology effluent limitations is set forth in Section XI of each subcategory report of the Development Document. The components of the BCT model treatment systems are presented in Appendix D.

### XIV. Regulated Pollutants

The basis for selecting the regulated pollutants, as well as the general nature and environmental effects of these pollutants, is discussed in detail in Section V of Volume I of the Development Document. Some of these pollutants are designated as toxic under Section 307(a) of the Act.

A. BPT—The pollutants controlled by this regulation include, for the most part, the same pollutants controlled by the prior BPT limitations. Some pollutants were deleted for various subcategories (e.g., chromium for hydride scale removal operations) because studies undertaken subsequent to the promulgation of the previous limitations

indicate that these pollutants are not found in great quantities in steel industry wastewaters.

The BPT effluent limitations are expressed in terms of maximum monthly average and maximum daily mass effluent limitations in kilograms of pollutant per 1000 kilograms (lbs/1000 lbs) of product. The limitations are calculated by multiplying the demonstrated pollutant concentrations, the BPT model discharge flow for each subcategory, and an appropriate conversion factor. For maximum daily limitations, the industry average limitation is multiplied by the appropriate variability factor.

B. BCT—The pollutants controlled by the BCT limitations include the statutory conventional pollutants, TSS, pH, and oil and grease. The Agency is not proposing BCT limitations for BOD. It is proposing BCT limitations in all twelve steel industry subcategories. Where the BCT model treatment system failed the BCT cost test, the Agency is proposing BCT limitations which are the same as the proposed BPT limitations.

C. BAT and NSPS—1. Non-toxic, Non-conventional Pollutants—The non-toxic, non-conventional pollutants limited by BAT and NSPS include ammonia-N and fluoride. These pollutants are subject to numerical limitations expressed in kilograms per 1000 kilograms (lbs/1000 lbs) of product. Total residual chlorine is also limited in two subcategories where chlorine is used in the treatment process.

2. Toxic Pollutants—Forty-eight toxic pollutants were found at concentrations above treatability levels in steel industry wastewaters. (Section V of Volume I contains a list of these pollutants.) Thirty toxic pollutants were found in cokemaking wastewaters. The Agency is proposing effluent limitations in one or more subcategories for the following toxic pollutants: phenols, cyanide, benzene, naphthalene, benzo(a)pyrene, 1,1,1-trichloroethane, 2-nitrophenol, anthracene, tetrachloroethylene, cadmium, chromium, copper, lead, nickel, and zinc. These pollutants are subject to numerical limitations expressed in kilograms per 1000 kilograms (lbs/1000 lbs) of product. The remaining toxic pollutants found in steel industry wastewaters, which are not specifically limited in the proposed regulation, will be controlled by limitations proposed for "indicator" pollutants as discussed below.

3. Indicator Pollutants—The difficulty and cost of analyses for the many toxic pollutants found in steel industry wastewaters has prompted EPA to propose an alternative method of regulating certain toxic pollutants. Instead of proposing specific effluent limitations for each of the forty-eight toxic pollutants found in the industry's wastewaters above treatability levels, the Agency is proposing effluent limitations for certain "indicator" pollutants. These include chromium, lead, zinc, phenols (4AAP) and several of the toxic organic compounds. The data available to EPA show generally that the control of the selected "indicator" pollutants will result in comparable control of other toxic pollutants found in the wastewaters but not specifically limited. By establishing specific limitations on only the "indicator" pollutants, the Agency will reduce the difficulty, high cost, and delays of pollutant monitoring and analyses that would result if pollutant limitations were established for each toxic pollutant. EPA estimates that industry will save about $10 million annually in monitoring and analysis costs. Section V in Volume I of the Development Document discusses in detail the pollutants found in steel industry wastewaters and those for which the Agency is proposing limitations at the BAT and NSPS levels of treatment. Section X of each subcategory report discusses the bases for the selection of "indicator" pollutants for each subcategory.

D. PSES and PSNS—The Agency is proposing PSES and PSNS for the same toxic pollutants which are limited at BAT and NSPS. The Agency is proposing those standards to insure against POTW upsets, to prevent contamination of POTW sludges and to guard against a pass-through of toxic pollutants. The PSES and PSNS are expressed as maximum monthly average and maximum daily mass limitations in kilograms per 1000 kilograms (lbs/1000 lbs) of product. As a general rule, the Agency establishes pretreatment standards on the basis of concentration. However, for the steel industry, the Agency believes the standards should be based upon mass limitations (kg/kkg) to insure that effective toxic pollutant control is provided and to minimize the hydraulic impact of large volume steel industry discharges on POTWs.

## XV. Pollutants and Subcategories Not Regulated

The Settlement Agreement contained provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories. These provisions have been rewritten in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected and therefore, excluded from regulation are listed in APPENDIX B to this proposed regulation.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in the effluent in only trace quantities and not likely to cause toxic effects. APPENDIX B lists the toxic pollutants in each subcategory which were detected in the effluent in trace amounts (at or below the nominal limit of analytical quantification), which are not likely to cause toxic effects and which are excluded from the proposed regulation.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in the effluent from a small number of sources and uniquely related to those sources. APPENDIX B contains a column labeled "Unique Occurrence" which lists those pollutants detected in the effluents of only one plant and uniquely related to that plant, which have been excluded from the proposed regulation. Appendix C contains the list of pollutants, by subcategory, for which limitations are being proposed.

## XVI. Monitoring Recommendations

When required to carry out the objectives of the Act, EPA is authorized by Section 308 to require the owner or operator of a pollutant discharge source to establish and maintain records; make reports; install and use monitoring equipment or methods; sample effluents; and, provide such other information as the Administrator may reasonably require. The authority under Section 308 has been frequently used by permit issuers to set monitoring requirements to "determine whether any person is in violation" of the requirements of a permit or other requirement of the Act [Section 308(a)(2)]. Additionally, EPA has frequently sought information under Section 308 to aid in developing regulations for many industries.

In this and other "toxics" regulations, EPA has developed typical monitoring programs for direct and indirect dischargers for the purpose of estimating monitoring costs as part of the economic impact analysis of the proposed regulation. These monitoring programs are not intended to supercede or duplicate existing compliance monitoring requirements set by NPDES

permit authorities but may be used as a guide in establishing minimum NPDES monitoring requirements. A minimum monitoring and analysis program is feasible at this time because only a small number of toxic pollutants will be limited, the cost of toxic pollutant analyses has decreased, and laboratory availability and efficiency have dramatically increased since the initiation of this study.

The monitoring and analysis program considered by the Agency includes continuous flow monitoring, grab sampling for pH (3 grabs per day, once a week), and oil and grease (3 grabs/day, once a week), and the collection of 24-hour composite samples once per week for all limited pollutants except noted below. More intensive monitoring is suggested for the period of time necessary to determine compliance with the proposed limitations. Accordingly, as of July 1, 1984, (the required compliance date for BCT and BAT), or as of the date of attainment of operational level of treatment facilities if such facilities are completed prior to July 1, 1984, monitoring and analysis of the limited pollutants should be carried out on a schedule of five daily composite samples per week (once per week for GC/MS pollutants). When the appropriate regulatory authority determines that compliance has been demonstrated monitoring can then be undertaken in accordance with the long term schedule discussed above. It should be noted that EPA may, on a case-by-case basis request collection of additional samples of raw wastewater or wastewater at points of intermediate treatment to determine treatment efficiencies.

## XVII. Costs, Effluent Reduction Benefits, and Economic Impacts

Executive Order 12044 requires EPA and other agencies to perform Regulatory Analyses of certain regulations. 43 FR 12661 (March 23, 1978). EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major significant regulations involving annualized compliance costs of $100 million or meeting other specified criteria. 43 FR 29891 (July 11, 1978). Where these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and an evaluation of regulatory alternatives. The proposed regulation for the steel industry meets the criteria for a formal Regulatory Analysis.

The capital and annual costs of this regulation are summarized below.

**Cost of Regulation—*Steel Industry***

[Millions of 1976 dollars]

[Based upon estimated facilities in place 6/30/80]

| | Capital costs | | |
|---|---|---|---|
| | Facilities in-place | Facilities required | Total |
| BPT | 1,826.0 | 417.8 | 2,243.8 |
| BAT (BCT) | [1] 188.6 | 444.1 | 632.7 |
| NSPS | .0 | 159.5 | 159.5 |
| Total | 2,014.6 | 1,021.4 | 3,036.0 |

[1] Includes $49.5 million of committed BAT expenditures.

**Annual Costs**

| | Incremental | | Total | |
|---|---|---|---|---|
| | 1984 | 1990 | 1984 | 1990 |
| BPT | 96.6 | 92.7 | 444.3 | 420.7 |
| BAT (BCT) | 150.3 | 93.6 | 193.2 | 133.8 |
| NSPS | 16.7 | 39.9 | 16.7 | 39.9 |
| Total | 263.6 | 226.2 | 654.2 | 594.4 |

EPA estimates that the total additional investment costs for the proposed regulation are about $1.02 billion. The associated annualized costs (including interest, depreciation, operating and maintenance) will be about $264 million in 1984, and drop to $226 million in 1990.

BPT–EPA estimates that, as of July 1, 1980, the steel industry must invest an additional $418 million to comply with the proposed BPT limitations. EPA estimates that the industry will incur annualized costs (including interest, depreciation, operating and maintenance) of $96.6 million of 1984. These costs decrease to $92.7 million by 1990.

BAT–EPA estimates that the steel industry must invest an additional $444.1 million to comply with the proposed BAT limitations. The incremental annual costs necessary to achieve the proposed BAT limitations are about $150.3 million in 1984. These costs decrease to $93.6 million in 1990. The costs to comply with the proposed BAT limitations includes the cost to comply with the proposed BCT limitations as the BAT model technology includes the BCT model technology in nearly every instance.

Compliance with the proposed BAT and BCT limitations will result in the removal of about 1,900 tons per year of toxic organic pollutants, 2,500 tons per year of toxic metals and 130,000 tons per year of other pollutants. As discussed in detail each subcategory report of the Development Document, the Agency has concluded that the effluent reduction benefits associated the industry's compliance with the proposed limitations and standards justify the costs. The Agency, between proposal and promulgation, will continue to evaluate alternative BAT levels that are either more or less stringent than those proposed herein.

EPA's economic impact assessment is set forth in *Economic Impact Analysis of Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Iron and Steel Manufacturing Point Source Category.*

This report, focuses on the production, pollution control, and financial characteristics of the steel industry. In analyzing these industry characteristics, the Agency employed a policy testing model of the steel industry which combines a methodology for calculating economic effects with the cost impact methodology employed by the American Iron and Steel Institute (AISI) in its investigation of pollution control costs for the industry. This combination permits and integrated analysis of the costs and financial effects of environmental regulations.

The Agency assessed the economic impact of this regulation under three scenarios. The first scenario was based on a continuation, over the 1981–90 period, of the economic environment and government economic policy the steel industry faced over the past decade. The second scenario was based on an average 3.0 percent growth in steel shipments, higher profitability, and changes in government policy that included more rapid recovery of capital investments, a return to "fair value" steel import prices in the domestic market, and the latitude for the steel industry to increase prices constrained only by supply and demand forces. The third scenario was designed to reflect changes in the economic environment due to government economic policies that would affect the steel industry's performance throughout the 1980s. The third scenario examines the impact of this regulation by evaluating the effect of common elements of the economic recovery policies various groups within government are currently considering. Specific changes include an increase in real economic growth due to tax incentives, a reinstatement of trigger prices, and approximately a 40 percent increase in depreciation cash flows. Continuation of past policies include, until at least the mid-1980s, a 10.1 percent limit on nominal steel price increases set by the current "Anti-Inflation" program. The results of these three analyses are summarized in Tables 1 and 2.

Table 1.—*Short-Run Economic Impact of Proposed Water Pollution Control Regulations, 1984*

| | Domestic shipments (millions of net tons) | Employment (thousands of employees) | Market share (percent) |
|---|---|---|---|
| Industry Status in 1979 | 100.3 | 342.0 | 84.8 |
| Scenario 1: | | | |
| Baseline | 101.3 | 334.5 | 82.0 |
| Additional Water Pollution Control Costs: | | | |
| Zero Pass-Through | 101.3 | 335.8 | 82.0 |
| Full Pass-Through | 101.3 | 335.8 | 82.0 |
| Scenario 2: | | | |
| Baseline | 106.7 | 356.0 | 82.0 |
| Additional Water Pollution Control Costs | 106.7 | 357.3 | 82.0 |
| Scenario 3: | | | |
| Baseline | 106.6 | 354.8 | [1]85.0 |
| Additional Water Pollution Control Costs | 106.6 | 356.1 | 85.0 |

[1]Reflects the new surge provisions of the recently reinstituted Trigger Price Mechanism.

Table 2.—*Long-run Economic Impact of Proposed Water Pollution Control Regulations, 1990*

| | Domestic shipments (millions of net tons) | Employment (thousands of employees) | Market share (percent) |
|---|---|---|---|
| Industry Status in 1979 | 100.3 | 342.0 | 84.8 |
| Scenario 1: | | | |
| Baseline | 92.4 | 271.1 | 71.5 |
| Additional Water Pollution Control Costs: | | | |
| Zero Pass-Through | 86.1 | 254.6 | 66.6 |
| Full Pass-Through | 89.1 | 262.9 | 68.9 |
| Scenario 2: | | | |
| Baseline | 126.0 | 366.4 | 82.0 |
| Additional Water Pollution Control costs | 126.0 | 368.3 | 82.0 |
| Scenario 3: | | | |
| Baseline | 117.8 | 341.5 | [1]85.0 |
| Additional Water Pollution Control Costs | 115.3 | 336.0 | [1]83.2 |

[1]Represents a recovery from a baseline market share of 77.8 percent in 1986 and from a market share after additional water pollution control costs of 73.4 percent also in 1986.

## First Scenario

In the first scenario, the effects of two cost pass-through assumptions were examined—zero pass-through of annual costs and full pass-through of annual costs. The analysis indicated that in either case the industry will be unable to finance the capital necessary to maintain existing production facilities, while at the same time maintaining bond ratings high enough to ensure ready access to debt capital markets. The capital requirements of this regulation will further reduce capital to maintain existing facilities. Because of the poor profit projections, the Agency does not think the industry can issue common stock without diluting stockholders' equity. Therefore, the industry will have to rely on debt as the principal source of funds for financing its investments.

*Market Share—Zero Pass-Through of Annual Costs*

Large debt issues could push debt to capitalization ratios to levels incompatible with bond ratings necessary to ensure ready access to debt funds and interest coverage ratios necessary to avoid undue risk of failure to meet financial obligations. Consequently, the Agency expects the industry to forego some reworks expenditures. In this event, the Agency predicts that the steel industry's share of the domestic market for steel will decline by about 2.2 percent (to 69.3 percent) below the estimated 1990 baseline share (71.5 percent) after complying with the BPT limitations, and by an additional 2.7 percent (to 66.6 percent) after complying with BAT limitations, or a combined loss of 4.9 percentage points.

The industry will face excess capacity as it attempts to recover from the current recession and will face continued competition from foreign steel. Throughout the 1980s, both factors will prevent the industry from raising prices to levels that would enable them to recover the annual cost of this regulation.

*Market Share—Full Pass-Through of Annual Costs*

Although unlikely, if full pass-through of costs were assumed, the market share would only fall to 70.5 percent after compliance with the BPT limitations and to 68.9 percent after compliance with the BAT limitations, or a combined incremental loss of 2.6 percentage points.

*Employment—Zero Pass-Through of Annual Costs*

Assuming zero pass-through of annual costs, the decline in production capacity due to this regulation on the steel industry is expected to cause a loss of about 17,900 jobs below a projected baseline employment of 271,100, or about 6.6 percent of baseline employment. However, additional expenditures for water pollution control will increase industry employment by about 1,400. Thus, under the first scenario, the net effect of this proposed regulation will be a decline of about 16,500 jobs from the projected baseline employment, or 6.1 percent of baseline.

*Employment—Full Pass-Through of Annual Costs*

Assuming that all costs are passed through, capacity reductions would decrease steel industry employment by about 9,600 jobs from a projected baseline employment of 271,100. With additional jobs of 1,400, the net decline would be 8,200, or 3.0 percent of the baseline.

## Second Scenario

Based on the analysis of these regulations under the second scenario, the long-run (1985–90) adverse impact of this regulation will be greatly reduced. The industry should be able to finance a full reworks program as well as all pollution control requirements during the 1981–90 period without a loss in current market share.

The analysis of this scenario indicates that the industry will face some financial strain during the 1981–84 period similar to that under the first scenario. It is during this period that the industry will have to make all the capital expenditures necessary to comply with the BPT and BAT regulations. These requirements will necessitate significant increases in debt financing because profitability will not begin to increase to levels that would permit additional common stock issues until about 1986. Thus, during the 1981–84 period, if industry attempts to prevent a deterioration in its bond ratings and tries to ensure ready access to capital markets, some reworks expenditures will be foregone.

*Market Share*

In contrast to the first scenario, this reduced capital expenditure program will be sporadic, spread over the entire industry, and not sustained. By 1984, profitability will begin to increase significantly, and by 1986 the industry should be able to begin issuing additional common stock. Thus, in the later part of the decade, the industry should be able to maintain its debt to capitalization and interest coverage ratios at levels that would ensure ready access to debt markets and avoid undue risks of default while at the same time financing all its capital requirements. Moreover, the industry can probably more than make up the reworks foregone in the first half of the decade thereby forestalling any loss in market share.

*Employment*

Under the second scenario, the effects of the regulation on employment should be positive. With no long-run reductions in productive capacity, there should be no decline in employment. However, additional expenditures on water pollution control equipment should increase employment by about 1,915 workers above a baseline employment of 336,400. Some minor reductions in

employment would occur due to a slightly reduced shipments volume resulting from price increases to cover water pollution control costs.

**Third Scenario**

The economic analysis under the third scenario reveals an overall impact that varies, depending on the time period, between the first and the second scenarios. The financial conditions of the steel industry depicted in the first scenario will persist until about 1987 or 1988, and then the industry will move towards the conditions depicted in the second scenario during the late 1980s and early 1990s.

*Market Share*

During the 1981-86 period, the industry will be under severe financial strain. Therefore, to meet the capital requirements of this regulation and to maintain ready access to capital markets, the industry will again forego reworks of existing facilities. Consequently, by 1988 the industry's share of the domestic steel market is expected to decline from a baseline level of 77.8 percent to 73.4 percent, or 4.4 percentage points, as a result of this proposed regulation. However, by 1986, profitability should begin to increase signficantly to levels that will enable the industry to reinstate a reworks program in addition to significant capacity replacement and expansion. Thus, by 1990, the industry's improved economic conditions will increase this market share to 83.2 percent compared to a baseline level of 85.0 percent.

*Employment*

The maximum impact of additional water requirements on employment would occur in 1987 and 1988. In these years, additional water pollution control requirements would lead to a decline in production labor of 16,190 jobs below the projected baseline. The decrease would be partically offset by the 1,650 jobs needed to operate the additional water pollution control equipment. Thus, the net effect of this water pollution control regulation on steel industry employment would be a *temporary* reduction of 14,540 jobs below the projected baseline employment by the late 1980s. After 1988, employment should begin to rebound. By 1990, employment will be reduced by 5,500 workers below a baseline of 341,500. However, some minor reductions in employment would also occur as a result of slight reductions in steel shipments due to price increases necessary to recover the water pollution control costs.

*Conclusions*

Based on the findings under these three scenarios, the industry's ability to finance required production capital over the 1981–90 period while complying with this regulation will depend on changes in broad government economic policies toward the industry. Policy changes could provide the industry with additional cash flows and could increase the demand for steel and steel industry profits as industry in general increases its expenditures on steel intensive capital equipment. In the presence of such changes, the steel industry's financial performance could begin to approach that described in the second scenario by the late 1980s or early 1990s. In the absence of such changes, the industry's performance throughout the 1980s could be best described by the first scenario. The Agency, in anticipation of some change in government policy towards industry, believes the assumptions embodied in the third scenario could well reflect the actual environment in which the steel industry will be operating in the 1980s. However, the Agency requests public comments on which of these three scenarios is the most appropriate for assessing the economic impact of this proposed regulation.

**XVIII. Non-Water Quality Aspects of Pollution Control**

The elimination or reduction of one form of pollution may aggravate other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA considered the effect of this regulation on air pollution, solid waste generation, water consumption, and energy consumption. This proposed regulation was circulated to and reviewed by EPA personnel responsible for nonwater quality programs. While it is difficult to balance pollution problems against each other and against energy use, EPA is proposing a regulation which it believes best serves often competing national goals.

A detailed discussion of these impacts is contained in Section VIII of each subcategory report of the Development Document. Following is a summary of the non-water quality environmental impacts (including energy requirements) associated with the proposed regulation:

A. Air Pollution—Industry compliance with the proposed BPT, BAT, BCT, NSPS, PSES, and PSNS limitations and standards will not create any substantial air pollution problems. However, in several subcategories, slight air impacts can be expected. First, minimal amounts of volatile organic compounds may be released to the atmosphere by aeration of cokemaking wastewaters in biological treatment. Second, small emissions of air pollution may result when ironmaking wastewaters are used to quench the hot slag generated in the process. Third, water vapor containing some particulate matter will be released from the cooling tower systems used in several of the subcategories. The Agency does not consider any of these impacts to be significant.

B. Solid Waste—The Agency has determined that 37.3 million tons per year of solid waste (at 30% solids) have and will be generated by the steel industry in complying with the proposed regulation. Of this amount, almost all (37.0 million tons) is already generating by the steel industry in complying with the proposed BPT limitations. This solid waste is comprised almost entirely of treatment plant sludges. EPA recognizes that significant quantities of other solid wastes, such as electric furnace dust and blast furnace slag, are generated by the steel industry. However, those solid wastes are generated by the manufacturing processes and are not associated with this proposed water pollution control regulation. For this reason, process solid wastes are not included in this impact analysis.

The data gathered for this study demonstrate that the industry collects and disposes of most sludges currently generated in existing treatment systems. Hence, the industry is presently incurring sludge disposal costs and finding the necessary disposal sites. The Agency believes that the industry will continue to be able to do so. (EPA is unable to estimate accurately the number of disposal sites that are secure, well maintained operations). The average sludge disposal cost used in this analysis is $5.00 per ton. These costs have been included in the Agency's estimate for costs of compliance with the proposed regulation and the Agency expects the solid waste impacts associated with the proposed regulation to be small.

C. Consumptive Water Loss—Water loss is a remand issue of the 1974 and 1976 regulations. As discussed in detail in Section III of the development document, the Agency concludes that the benefits derived from compliance with the limitations justify the negative impacts associated with the consumption of water. The Agency has reached this conclusion after considering this issue on both an

industry-wide basis and on a water-scarce regional basis.

D. Energy Requirements—EPA estimates that compliance with the proposed regulation will result in a net increase of electrical energy consumption at the BPT and BAT/BCT levels of treatment as shown below:

| Treatment level | Net energy consumption (kw-hr) (billion) |
|---|---|
| BPT | 1.20 |
| BAT/BCT | 0.87 |
| Total | 2.07 |

The electric power requirements associated with the proposed BPT, BCT, and BAT limitations amount to 3.6 percent of the 57 billion kw-hrs of electrical energy consumed by the steel industry in 1978. This amounts to only 0.6 of the total energy (electric and nonelectric) consumed by the industry. The Agency concludes that the impacts of the energy consumed due to compliance with the proposed regulations is justified by the benefits derived from compliance with the proposed limitations and standards.

## XIX. Best Management Practices (BMPs)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMPs"). EPA intends to develop BMPs which are: (1) applicable to all industrial sites; (2) applicable to a designated industrial category; and (3) provide guidance to permit authorities in establishing BMPs required by unique circumstances at a given plant.

EPA is not proposing BMPs specific to the steel industry in this regulation.

## XX. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent guidelines is necessary because such upsets will inevitably occur in even properly operated control equipment. Because technology-based limitations are based upon what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir 1977) with *Weyerhaeuser* v. *Costle, supra* and *Corn Refiners Association, et al.* v. *Costle*, 594 F2d 1223 (8th Cir. 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented. Bypass provisions covering emergency situations have, in the past, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits and they are included in the NPDES regulations, 40 CFR § 122.60, 45 FR 33298; May 19, 1980. The upset provisions establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Because this issue is resolved in the NPDES permit regulations, this proposed regulation does not address these issues.

## XXI. Variances and Modifications

Upon the promulgation of the final regulation, the numerical effluent limitations for the appropriate subcategory must be included in all federal and state NPDES permits thereafter issued to steel industry direct dischargers. In addition, the pretreatment standards are directly applicable to indirect dischargers upon promulgation.

For the BPT and BCT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1974–1976 steel industry regulations, it is now included in the NPDES regulations and will not be included in the steel or other industry regulations. See the final NPDES regulations, Act 45 FR 33290 (May 19, 1980), for the text and explanation of the "fundamentally different factors" variance.

The BAT limitations in this regulation also are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for non-toxic and non-conventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines. See 40 CFR Part 125 Part D. Under Section 301(1) of the Act, these statutory modifications are not applicable to "toxic" pollutants. Likewise, limitations on nonconventional pollutants used as "indicators" for toxic pollutants are not subject to Section 301(c) or Section 301(g) modifications, unless the discharger demonstrates that a waste stream does not contain any of the toxic pollutants for which the "indicator" was designed to demonstrate removal.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTWs. See 40 CFR 403.7, 403.13; 43 FR 27736 (June 26, 1978). Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *duPont* v. *Train, supra*.

## XXII. Relationship to NPDES Permits

The BPT, BAT, BCT, and NSPS limitations and standards in this regulation will be applied to individual steel plants through NPDES permits issued by EPA or approved state agencies under Section 402 of the Act. The preceding section of this preamble discussed the binding effect of this regulation on NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of this regulation and NPDES permits.

One matter which has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations, guidelines and standards. Under currently applicable EPA regulations, states and EPA Regions issuing NPDES permits prior to promulgation of this regulation and before June 30, 1981 must include a "reopener clause," providing for permits to be modified to incorporate "toxics" regulations when they are

promulgated. Permits issued after June 30, 1981 must meet the requirements of Sections 301(b)(2) of the Clean Water Act whether or not applicable effluent limitation guidelines have been promulgated. See 40 CFR § 122.62(c), 45 FR 33290, 33339 (May 19, 1980). At one time EPA had adopted a policy of issuing short-term permits, with a view toward issuing long-term permits only after promulgation of these and other BAT regulations. While EPA continues to encourage EPA and State permit writers to issue short-term permits to primary industry dischargers until June 30, 1981, EPA has changed its policy to allow more flexibility. See 45 FR 33340 (May 19, 1980). EPA permit writers may issue long-term permits to primary industries even if guidelines have not yet been promulgated provided that the permits require compliance with BAT and BCT limitations and contain reopener clauses. The appropriate technology levels and limitations will be assessed by the permit issuer on a case-by-case basis on consideration of the statutory factors. See *U.S. Steel Corp.* v. *Train*, 556 F.2d 822 (7th Cir. 1977). In these situations, EPA documents and draft documents (including these proposed regulations and supporting documents) are relevant evidence, but not binding, in NPDES permit proceedings.

With respect to the steel industry, however, the EPA has decided not to issue (and to encourage state NPDES permit issuing authorities not to issue) case-by-case NPDES permits until the final limitations are promulgated; assuming these final limitations will be promulgated no later than July 1, 1981. In event the promulgation of the final limitations is delayed beyond July 1, 1981, EPA (or the appropriate state NPDES permitting authority) would issue permits on a case-by-case basis.

Another noteworthy topic is the effect of this regulation on the powers of NPDES permit issuing authorities. The promulgation of this regulation does not restrict the power of any permit-issuing authority to act in any manner not inconsistent with law or these or any other EPA regulations, guidelines or policy. For example, the fact that this regulation does not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis, when necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of state or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

EPA is evaluating the use of the water bubble concept for the steel industry. The water bubble concept is a method of developing effluent limitations that would allow dischargers to discharge greater amounts of effluent at outfalls where treatment costs are high in exchange for an equivalent decrease in effluent discharged at outfalls in the same plant where abatement is less expensive. Thus, the same amount of reduction in pollutant loadings can be obtained at less cost.

Using the water bubble concept, a discharger could discharge no more total pounds of pollutants than it could without a bubble. However, with the bubble concept the discharger would have the flexibility to allocate that discharge among its various outfalls in the least costly manner. For example, a discharger could trade an increase (above that prescribed by the effluent guidelines) of 10 pounds of pollutant X in outfall A for a decrease of 10 pounds of the same pollutant in outfall B.

In evaluating the water bubble concept for the steel industry, EPA wants to ensure that use of the concept will be equivalent in enforceability and environmental impact to control without a bubble. To ensure this equivalence, EPA is considering applying several conditions on the use of the water bubble concept:

a. *Dischargers must meet water quality standards.*

A change in the distribution of pollutant loadings among outfalls may adversely affect water quality even if total loadings do not increase. A permit writer would not approve the use of the water bubble concept if its application results in a violation of water quality standards.

b. *Trades would involve only the same pollutant.*

EPA would allow dischargers to trade a pollutant in one waste stream only against the same pollutant in another wastestream. For example, zinc would be traded for zinc, but not for chromium or lead.

c. *Each outfall must have a specific discharge limit.*

EPA would not approve applications of the water bubble concept that do not have specific enforceable limitations set for each outfall. The water bubble concept would not allow limitations to be set on a plant-wide "floating" basis.

d. *Dischargers would initiate, at their own expense, water bubble proposals during the normal permit reissuance process.*

The discharger would be responsible for developing its own water bubble proposal. EPA would allow dischargers to make proposals only during the normal permit reissuance process. In no case would EPA allow the water bubble proposal to delay compliance with pollution control requirements.

e. *Non-complying dischargers would not be allowed to use the water bubble concept.*

Only facilities in compliance with permit conditions, on an EPA approved compliance schedule, or on a court-ordered schedule for compliance with applicable effluent limitations and current water quality standards would be eligible to use the water bubble concept.

f. *All waste streams would be required to meet applicable BPT requirements.*

Dischargers would not be allowed to meet less than BPT limits for any outfall. Thus, a plant could not decrease control of a pollutant below the outfall specific BPT limitation, even if it were able to obtain sufficient reductions of the same pollutant at another outfall.

g. *Trading between some waste streams from different subcategories would be prohibited.*

This condition would restrict potential trades of pollutants to certain subcategory wastestreams. Currently, EPA is considering prohibiting any trades with cokemaking, ironmaking, and sintering subcategories because their pollutant characteristics are of a different nature than those from other iron and steel subcategories.

Between proposal and promulgation of the steel effluent guidelines, EPA will decide whether to include specific water bubble provisions as part of the final regulation. In making this decision, EPA will evaluate any comments received on the water bubble. For specific questions about this policy, please call Richard Raines, Economic Analysis Division, (202) 755-7733.

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing this regulation. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner which recognizes and promotes good faith compliance efforts and conserves enforcement resources so as to maximize their availability for actions against those who fail to make good faith efforts to comply with the Act.

## XXIII. Summary of Public Participation

Between November 1979 and April 1980, EPA circulated nine individual volumes, which together comprise the EPA contractor's draft technical report on the bases of this proposed regulation, including available treatment alternatives and costs. The draft technical report was distributed to a number of interested parties, including the American Iron and Steel Institute and several member firms, the Natural Resources Defense Council (NRDC), and affected state and municipal authorities. This document did not include recommendations for proposed effluent limitations and standards, but rather presented the EPA Contractor's draft technical report on treatment alternatives available, costs, and other information relating to this proposed regulation. A meeting was held in Washington, D.C. on May 19, 1980 for public discussion of comments on this document.

The following general issues raised by the industry are addressed below. Special issues and technical considerations are addressed elsewhere (see Section XXIV).

1. *Regulation of the Steel Industry at the BAT Level*

The AISI and some of its member companies have requested that the steel industry not be regulated at the BAT level, citing the significant removal of toxic and conventional pollutant loads from raw waste loads to the proposed BPT level.

The Agency agrees that the proposed BPT level of treatment for the steel industry provides for a significant reduction in the discharges of toxic, nonconventional, and conventional pollutants. This is not surprising since those familiar with the industry are aware of the quantity of raw materials and products moved through this industry, the vast quantities of water contaminated by its operations (over six billion gallons per day), and the tremendous size and pollution potential of its processes. Hence, any significant level of pollution control is bound to demonstrate a large percentage removal of pollutants from raw waste loads.

The Agency is more concerned with the toxic, nonconventional, and conventional pollutants discharged into the environment at the proposed BPT level rather than with the percentage reduction of pollutants from raw waste loads. For the steel industry those loadings are among the highest, if not the highest, of major American industries, amounting to over 2150 tons/year of toxic organic pollutants (including cyanide), 2740 tons/year of toxic metal pollutants, and 140,000 ton/year of nonconventional and conventional pollutants. There is more than a ninety percent reduction in the discharge of pollutants cited above from the proposed BPT limitations to the proposed BAT and BCT limitations. EPA estimates, however, that even when the steel industry complies with the proposed BAT and BCT limitations, 247 tons of toxic organic pollutants, 222 tons of toxic metal pollutants, and 10,300 tons of non-conventional and conventional pollutants will be discharged annually into the environment. These amounts are higher than the annual discharge of most other industries at their respective BPT levels of treatment.

Based upon the above considerations, the Agency believes that regulation of the steel industry at the proposed BAT level is appropriate.

2. *Central Treatment*

The Agency has received numerous requests from AISI and its members to create a subcategory within the proposed regulation allowing for central or combined treatment of wastewaters from various subcategories. There are two major issues associated with central treatment:

(1) The compatibility of effluent limitations for subcategories that can be effectively cotreated; and

(2) The historical inclusion of cooling water, surface runoff, roof runoff, and other nonprocess waters in existing central treatment systems.

With respect to the first issue, the Agency recognizes that central treatment of compatible wastewaters is an effective means to achieve compliance with the proposed regulation at a cost less than would be required for separate treatment systems. Accordingly, the Agency has taken direct, positive action to facilitate central treatment where it believes central treatment is effective. The prior 1974 and 1976 regulations contained BPT effluent limitations for the various subcategories that often were not compatible from the standpoint of co-treating similar wastewaters. These limitations are, by and large, identical to the proposed BPT limitations. The Agency did not revise these limitations for purposes of facilitating central treatment at the BPT level because it believes that co-treatment at that level of treatment is inappropriate due to the high discharge flow rates incorporated in certain BPT model treatment systems and the number of unregulated toxic pollutants.

However, at the BAT and NSPS levels, this proposed regulation directly addresses the central treatment problem by providing limitations for the same pollutants for subcategories that can be effectively co-treated. Hence, this issue will be resolved for all levels of treatment upon promulgation of the proposed BAT and BCT limitations and NSPS. The Agency has concluded that, with adequate pretreatment where necessary, wastewaters from the following groups of subcategories can be treated together to achieve the proposed limitations:

**Group and Subcategory**

1. Cokemaking
2. Sintering, Iron Making
3. Steelmaking, Vacuum Degassing, Continuous Casting, Hot Forming, Pickling, Cold Rolling, Alkaline Cleaning, Hot Coatings

The Agency considered the nature of coke plant wastewaters and the biological treatment currently used to treat those wastewaters in developing the proposed BAT limitations and believes that coke plant wastewaters must be treated separately to insure the effective removal of toxic and non-conventional pollutants. Based upon the nature of toxic and non-conventional pollutants found in sintering and ironmaking wastewaters, and the treatment systems considering in developing the proposed BAT effluent limitations, the Agency believes that these wastewaters can be effectively co-treated at the BAT level. The Agency is proposing limitations for the same pollutants in these categories to facilitate co-treatment. However, the Agency concludes that treatment of cokemaking, sintering, and ironmaking wastewaters with wastewaters from other subcategories allows for the dilution of non-conventional and toxic pollutants not found in wastewaters from the other subcategories (i.e., Ammonia-N, Cyanide, Phenolic compounds, and other organic compounds found in cokemaking wastewaters) which reduces the treatability of those pollutants, and, therefore that such co-treatment is not appropriate.

The proposed BCT and BAT limitations for the subcategories listed in Group 3 above are compatible and facilitate the implementation of extensive central treatment. Where necessary, pretreatment for the following subcategories may be required: pickling; cold rolling; and hot coatings.

The Agency has decided not to oppose the establishment a central treatment subcategory in the proposed regulation. There are numerous combinations of wastewater treatment systems that can be and are being employed ranging from individual

recycle systems followed by central treatment of blowdowns and once-through flows, to total plant-wide recycle systems with treatment of the blowdown. These combinations are so numerous, that it is not possible for the Agency to regulate effectively the discharge of toxic pollutants at the BAT level with a central treatment subcategory. The only feasible means of limiting discharges from those treatment systems is to establish limitations based on pollutant concentrations. However, the use of concentration limitations alone cannot provide for effective limitation of toxic pollutant discharges since those limitations do not regulate discharge flow. The reduction in discharge flow provides most of the toxic pollutant loading removal to be achieved by industry's compliance with the proposed BAT and BCT limitations.

In all cases, the limitations applicable to a central treatment facility should be the sum of the applicable effluent loading limitations for the individual subcategory processes tributary to the central treatment facility.

Based upon the above considerations, the Agency believes that the development of a central treatment subcategory which provides for effective regulation of toxic pollutants is not possible or necessary. However, the Agency has made central treatment possible under the proposed BAT, BCT, and NSPS limitations and standards by carefully selecting the toxic pollutants to be limited for those subcategories that have compatible wastes.

As noted above, the second major issue pertaining to central treatment is the historical inclusion of cooling water, surface runoff and roof runoff in central treatment systems. While separation of these non-process waters has been accomplished at many steel plants and even at many older steel plants, it may be inordinately expensive to do so at a small number of plants.

The Agency believes its model treatment system cost estimates, which are based upon the more costly separate treatment systems for each subcategory, are sufficiently generous to cover all site-specific and retrofit costs associated with upgrading most existing central treatment systems to the point where the proposed BAT limitations can be achieved. However, there may be instances where, because of unique site-specific factors, the proposed BAT limitations may not be achievable without the expenditure of amounts significantly higher than those estimated by the Agency. In such instances, the Agency believes that the plants should receive alternative BAT limitations.

In establishing alternative BAT limitations for a particular plant the Agency would evaluate the existing central treatment system on a site-specific basis by the following three steps.

(1) Computing the applicable BAT effluent limitations by summing the allowable effluent loadings for each subcategory process tributary to the central treatment facility.

(2) Requiring separation of those non-process flows that can reasonably be accomplished.

(3) Adjusting recycle rates for the remaining flows and requiring appropriate blowdown treatment to achieve the applicable effluent limitations.

Where surface and roof runoff have not been separated from process wastewaters, surge capacity can be provided prior to recycle to maintain low blowdown rates. In extreme cases it may be necessary to provide for additional flow allowances during rainfall events.

There are two stages at which the Agency can evaluate whether a particular plant or central treatment facility should be subject to effluent limitations less stringent than the generally applicable BAT limitations. The Agency could, where feasible, identify certain plants in the final regulation for which alternative limitations are appropriate, and establish limitations for those facilities. If the Agency finds that it can, from a practical standpoint, resolve this issue in the regulation, it will do so. Alternatively, the Agency could resolve this issue at the permit writing stage. The discharges could apply for a "fundamentally different factor" variance under 40 CFR § 125.31(b)(3). For example, if the cost of segregating the non-process waters and installing the BAT model technologies, or otherwise achieving compliance with the appropriate BAT limitations, would be "wholly out of proportion" to the Agency's estimated cost, the discharger may obtain relief from the generally applicable limitations. Under the variance procedure, the permit writer would evaluate the existing central treatment system and alternative treatment approaches, and propose alternative limitations for that facility on a case-by-case basis.

As stated previously, the Agency would like to resolve this issue under the first approach. The Agency met with representatives of AISI and its member companies regarding those plants which they believed were entitled to alternative effluent limitations or inclusion in a central treatment subcategory. At those meetings, the industry representatives presented data for more than thirty plants. Based upon those data and its independent analysis of the problem, the Agency has identified seven plants which it believes may be entitled to relief from the generally applicable limitations. They are as follows:

| Plant | Locations | Central treat facility |
|---|---|---|
| 1. Armco Steel | Ashland, KY | Total plant. |
| 2. Bethlehem Steel | Sparrows Point, MD. | Humphrey's Creek. |
| 3. Bethlehem Steel | Burns Harbor | Total plant. |
| 4. National Steel | Granite City, IL | Total plant. |
| 5. Republic Steel | Gadsden, AL | Total plant. |
| 6. U.S. Steel | Lorain, OH | Pipe mill lagoon. |
| 7. U.S. Steel | Provo, UT | Total plant. |

The Agency is continuing to analyze whether these or any other plants should have alternative limitations, and if so, what those limitations should be. If it determines that alternative limitations are appropriate, it will give notice of those proposed alternative limitations and provide an opportunity for comment.

The Agency is soliciting comments regarding whether these plants, or any other plants should have alternative limitations. The commenter should provide the following information for each plant:

(1) A schematic diagram of the existing wastewater treatment facility showing each major treatment component;

(2) Flow rates;

(3) A scale map of the area of the plant served by the wastewater treatment facility, including the treatment facility and water supply and discharge points;

(4) An estimate of the capital investment required to meet the proposed BAT limitations for the facility; and

(5) The effluent limitations which could be achieved if the discharger were to spend an amount equal to the Agency's model treatment system cost estimate for the facility and the treatment facilities which would be used to meet those limitations.

3. *Consumptive use of Water.*

a. One commenter suggested that EPA had failed to consider adequately, the impact of the proposed limitations on water consumption. The commenter contends that EPA has failed to estimate accurately the water consumption associated with industry's compliance with the proposed limitations, failed to consider the adverse impact which this water consumption would have on users of water downstream from the

commenter, and failed to account generally for the water scarity problems of the arid and semi-arid western states.

In response to the court's remand on this issue, EPA undertook an extensive analysis of the water consumption impact of this proposed regulation. The manner in which the Agency examined this issue, and the bases for its conclusions, are presented in detail in Section III of Volume 1 of the Development Document. The Agency estimated the water that will be consumed by the various water pollution control systems available for use in the steel industry. Based on the assumption that the industry will use evaporative cooling devices, the Agency estimates the water loss to be only 0.07% of the daily flow of steel industry process waters at the BPT level and 0.25% of daily flow at the BAT level. On the other hand, by proposing the limitations at their present level, the process water intake flow of steel industry will decrease by 40%, thus precluding approximately 3 billion gallons per day from becoming contaminated by steel industry processes.

Moreover, the Agency surveyed the following four steel plants which it considers to be the only major plants located in arid or semi-arid regions of the country.

0196A CF&I Steel Corporation, Pueblo, Colorado
0443A Kaiser Steel Corporation Fontana, California
0492A Lone Star Steel Company Lone Star, Texas
0864A United States Steel Corporation Provo, Utah

Based upon information provided by these companies, the Agency found that nearly all of the recycle and evaporative cooling systems included in the model treatment systems used to develop the proposed limitations and standards have been installed at these plants. Consequently, the incremental water consumption associated with compliance with the proposed limitations and standards is either minimal or non-existent for plants located in arid or semi-arid regions.

Although the commenter noted above suggested the Agency failed to account for water consumption associated with "drift" (as opposed to evaporation) from wet cooling towers, that loss of water was accounted for in the Agency's estimate of water consumption. (0.1% of flow).

The commenter also suggested that the increased water consumption which will result from compliance with the proposed regulation will adversely effect downstream users of water including agricultural and industrial users. Beyond the Agency's determination that the adverse impacts associated with the estimated increase in water consumption is justified by the benefit of reducing the pollutant load discharged to meet the proposed limitations, EPA is not able to consider properly the site specific factors cited by the commenter. Such site specific non-water quality environmental factors may be considered in a request for a variance by an NPDES permit applicant (See 40 CFR 125, Subpart D). The Agency notes that the commenter is located in a state which has been delegated the authority to administer the NPDES program. The permitting authority which will issue the permit and consider any requests for a variance is uniquely suited to account for the regional and state concerns cited by the commenter.

b. The commenter also suggests that the Agency is ignoring Section 101(g) of the CWA by proposing limitations which will result in increased water consumption. The commenter suggests that Section 101(g) recognizes the primacy of state water laws and allocation systems over the CWA.

EPA does not agree with the commenter's conclusion regarding the primacy of state water laws over the CWA. The court, in *AISI II*, noted the primacy of the CWA over state water laws based upon the Supremacy Clause of the U.S. Constitution. That conclusion is equally applicable now and the existence of state water laws does not prohibit EPA from establishing limitations which incidentally involve the consumptive use of water. The Agency does, however, understand that Congress intended that EPA not unnecessarily interfere with those rights. It is noteworthy that EPA is preparing a report to Congress under Section 102(D) of the CWA regarding measures to coordinate water quality and water quantity issues and policies. This report demonstrates the Agency's continued sensitivity to this issue and its efforts to accommodate both goals.

## XXIV. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record of this proposal be pointed to with specificity and that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving additional comments and information on the following issues:

*A. General Issues*

1. Whether the proposed limitations and standards for each of the subcategories are appropriate. Specifically, the Agency solicits comments on whether the proposed BPT limitations for the following operations, which are less stringent than those contained in prior regulations, are appropriate: (a) cokemaking—by-product; (b) sintering; (c) open hearth—wet

2. Whether the Agency has accurately estimated the cost of compliance with the proposed limitations and standards including site-specific costs, retrofit costs, and any other costs of compliance with the regulation.

3. Whether the pollutants proposed for limitation in each subcategory are appropriate. Specifically, the Agency solicits comments regarding the use of indicator pollutants and whether the indicator pollutants selected are appropriate.

4. In establishing limitations for the pickling, scale removal, alkaline cleaning, cold rolling, and hot coating operations, the Agency used production tonnage as a normalizing basis. The Agency does not have sufficient data available to develop effluent limitations on the basis of product surface area. While the Agency understands that product surface area data are not universally available throughout the industry, the Agency solicits comments on whether establishing limitations on that basis is appropriate, how those limitations could be established, and the data with which they could be established.

5. EPA is evaluating the use of the water bubble policy for the steel industry. Section XXII contains a discussion of how the policy might work and possible conditions for its application. EPA solicits comments on all aspects of the use of the water bubble policy in the steel industry. In particular, EPA solicits comments on the following issues:

a. Will the steel industry benefit from use of the water bubble concept? Comments are solicited on the amounts which specific plants may save using the water bubble concept.

b. What conditions for applying the water bubble concept are needed to ensure that it is equivalent in enforceability and water quality impact to control without a bubble? Comments are solicited on the possible conditions for its application which are described in Section XXII.

c. Can the water bubble concept be implemented without excessive

administrative burden on the EPA or state permit issuing authorities?

6. Whether the definitions of steel industry processes and products contained in the proposed regulation are sufficiently specific to identify their applicability.

*B. Subcategory Specific Issues*

1. *Cokemaking.*

a. Whether separate BAT limitations for existing full-scale physical-chemical treatment systems incorporating granular activated carbon adsorption are warranted; or whether BAT limitations based upon biological treatment should be universally applicable.

b. The Agency has recently obtained data which indicate that the proposed BAT limitations for cokemaking may be achieved with single-stage biological treatment systems similar to those contained in the model BPT treatment systems. The Agency expects that the costs for such systems will be substantially less than those for the model BAT treatment systems. The Agency solicits comments regarding: (i) whether or not single stage biological treatment similar to that used in the BPT model treatment systems can be used with post filtration to attain the proposed BAT limitations; and (ii) if such systems cannot achieve the proposed BAT limitations, what BAT limitations would be appropriate for these systems.

2. *Ironmaking.*

a. Whether the proposed BCT, BAT, NSPS, PSES, and PSNS limitations are appropriate for both ferromanganese and ironmaking blast furnaces.

b. The Agency is soliciting comments on whether it would be appropriate to promulgate a new source performance standard and a pretreatment standard for new sources of zero discharge based upon evaporation of blast furnace blowdown on slag.

3. *Vacuum Degassing.*—The Agency found a vacuum degassing plant that achieves zero discharge using the treatment system components identified by the Agency as the model BPT system. Accordingly, the Agency solicits comments on whether zero discharge limitations and standards should be promulgated as BAT, BCT, NSPS, PSES, and PSNS for the vacuum degassing subcategory based upon the demonstrated performance of this plant. No costs beyond those required for compliance with the proposed BPT limitations would be necessary to achieve zero discharge for vacuum degassing operations.

4. *Continuous Casting.*—The Agency found that about twenty-five percent of the continuous casting plants achieve zero discharge using the treatment system components identified by the Agency as the model BPT system. Accordingly, the Agency solicits comments on whether zero discharge limitations and standards should be promulgated as BAT, BCT, NSPS, PSES, and PSNS for the continuous casting subcategory based upon the demonstrated performance of these plants. No costs beyond those required for compliance with the proposed BPT limitations would be necessary to achieve zero discharge for continuous casting operations.

5. *Hot Forming.*

a. The Agency found that the following number of hot forming mills achieve zero discharge using the treatment system components identified by the Agency as BPT, BAT, and BCT model treatment systems:

*Subdivision and Number of Mills*

Primary—3
Section—9
Flat—1
Pipe and Tube—1

Accordingly, the Agency solicits comments on whether zero discharge limitations and standards should be promulgated as BAT, BCT, NSPS, PSES and PSNS for any or all of the hot forming subdivisions. No costs beyond those required to achieve compliance with the proposed BPT, BAT, and BCT limitations would be necessary to achieve zero discharge for hot forming operations.

b. The Agency is proposing BAT, NSPS, PSES, and PSNS limitations and standards for toxic metal pollutants for the hot forming subcategory. Several commenters have suggested that hot forming operations for carbon steel products do not contribute any toxic metal pollutants to its wastewaters. They therefore contend that the proposed BAT, NSPS, PSES, and PSNS limitations and standards are not appropriate for those operations. The Agency believes that its data clearly indicate that both carbon and specialty steel hot forming operations contribute toxic metal pollutants to its process wastewaters above treatability levels. These data indicate the hot forming operations can contribute about 1,670 tons/year of toxic metal pollutants at the proposed BPT level and that these discharges can be reduced to about 90 tons/year at the proposed BAT Level. The Agency solicits comments on the following issues:

(1) Whether hot forming operations should be subdivided between carbon steel and specialty steel operations to a greater degree than is currently contemplated in this proposed regulation.

(2) Whether, and to what extent, carbon and specialty steel operations contribute toxic metal pollutants to process wastewaters.

The Agency is interested in any relevant data which bears on these issues. To the extent that any commenter would like to conduct sampling activities and submit data prior to the close of the comment period, the Agency will provide direction regarding the appropriation sampling points for particular facilities.

6. *Cold Rolling.*

a. The Agency has received comments indicating that product quality requirements may be limiting factors in achieving the discharge flows which may be required to achieve the proposed limitations. However, the Agency has insufficient documentation or data to support this claim. Hence, the Agency solicits data and documentation on this issue.

b. Based upon available data, the Agency believes that the toxic organic pollutant contamination of selected cold rolling operation wastewaters is attributable to the type of rolling and coating solutions applied to the various steel products. However, the agency has found that some cold rolling operation wastewaters are not contaminated by those pollutants. The Agency is continuing to investigate this issue. The Agency solicits data and documentation on whether toxic organic pollutant-free rolling solutions can be used in most or all cold rolling operations.

7. *Hot Coatings.*—The Agency found several hot coating operations without fume scrubbers in the following subdivisions which achieve zero discharge using the treatment system components identified by the Agency as the BPT model system:

*Subdivision and Product Type*

Galvanizing—Strip, sheet, and miscellaneous products, wire products and fasteners
Other coatings—Strip, sheet, and miscellaneous products

Accordingly, the Agency solicits comments on whether the hot coatings subcategory should be further subdivided and whether zero discharge limitations and standards should be promulgated as BAT, BCT, NSPS, PSES, and PSNS for those segments of the hot coatings subcategory where zero discharge has been demonstrated. No costs beyond those required for compliance with the proposed BPT limitations would be necessary to achieve zero discharge for those hot coatings operations.

In addition, the Agency has prepared a compilation of responses to comments received on the October 1979 draft technical report. This compilation is available from Ernst P. Hall, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, Washington, D.C. 20460 (Phone: 202-426-2586). The Agency is also soliciting additional comments on each of the specific issues raised in these comments and the three general issues raised in Section XXIII.

Dated: December 24, 1980.

Douglas M. Costle,

*Administrator.*

**Appendix A—Abbreviations, Acronyms and Other Terms Used in This Notice**

ACT—The Clean Water Act.

AGENCY—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.

BMP—Best management practices under Section 304(e) of the Act.

BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act.

Clean Water Act—The Federal Water pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*) as amended by the Clean Water Act of 1977 (Public Law 95-217).

Direct Discharger—A facility which discharges or may discharge pollutants directly into waters of the United States.

Indirect Discharger—A facility which introduces or may introduce pollutants into a publicly owned treatment works.

NPDES Permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards under Section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of direct discharges under Section 307(b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (PL 94-580) of 1976, Amendments to Solid Waste Disposal Act.

**Appendix B.—*Development of Regulated Pollutant List Iron and Steel Industry***

| No. | Pollutant | Not detected | Unique occurrence | Not treatable | Regulation considered |
|---|---|---|---|---|---|
| 001 | Acenaphthene | - | - | X | - |
| 002 | Acrolein | X | - | - | - |
| 003 | Acrylonitrile | - | - | - | X |
| 004 | Benzene | - | - | - | X |
| 005 | Benzidine | X | - | - | - |
| 006 | Carbon Tetrachloride | - | - | X | - |
| 007 | Chlorobenzene | X | - | - | - |
| 008 | 1,2,4-Trichlorobenzene | X | - | - | - |

**Appendix B.—*Development of Regulated Pollutant List Iron and Steel Industry*—Continued**

| No. | Pollutant | Not detected | Unique occurrence | Not treatable | Regulation considered |
|---|---|---|---|---|---|
| 009 | Hexzachloroben-zene | - | - | - | X |
| 010 | 1,2-Dichloroethane | - | - | X | - |
| 011 | 1,1,1,-Trichloroethane | - | - | - | X |
| 012 | Hexachloroethane | X | - | - | - |
| 013 | 1,1-Dichloroethane | - | - | X | - |
| 014 | 1,1,2-Trichloroethane | - | X | - | - |
| 015 | 1,1,2,2-Tetrachloroeth-ane | - | - | X | - |
| 016 | Chloroethane | X | - | - | - |
| 017 | Bis(chloromethyl) ether | X | - | - | - |
| 018 | Bis(2-chloroethyl) ether | X | - | - | - |
| 019 | 2-Chloroethyl vinyl ether | X | - | - | - |
| 020 | 2-Chloronaphtha-lene | - | - | X | - |
| 021 | 2,4,6-Trichlorophenol | - | - | X | - |
| 022 | Parachlorometacresol | - | - | - | X |
| 023 | Chloroform | - | - | - | X |
| 024 | 2-Chlorophenol | - | - | - | X |
| 025 | 1,2-Dichlorobenzene | - | - | X | - |
| 026 | 1,3-Dichlorobenzene | X | - | - | - |
| 027 | 1,4-Dichloroberzene | - | - | X | - |
| 028 | 3,3'-Dichlorobenzidine | X | - | - | - |
| 029 | 1,1-Dichloroethylene | - | X | - | - |
| 030 | 1,2-Transdichloroethylene | - | - | X | - |
| 031 | 2,4-Dichlorophenol | - | - | X | - |
| 032 | 1,2-Dichloropropane | X | - | - | - |
| 033 | 1,2-Dichloropropylene | X | - | - | - |
| 034 | 2,4-Dimethylphenol | - | - | - | X |
| 035 | 2,4-Dinitrotoluene | - | - | - | X |
| 036 | 2,6-Dinitrotoluene | - | - | - | X |
| 037 | 1,2-Diphenylhydra-zine | - | - | X | - |
| 038 | Ethylbenzene | - | - | - | X |
| 039 | Fluoranthene | - | - | - | X |
| 040 | 4-Chlorophenyl-phenyl ether | X | - | - | - |
| 041 | 4-Bromophenyl-phenyl ether | X | - | - | - |
| 042 | Bis(2-chloroisopropyl) ether | X | - | - | - |
| 043 | Bis(2-chloroethoxy) methane | X | - | - | - |
| 044 | Methylenechloride | - | - | X | - |
| 045 | Methyl chloride | X | - | - | - |
| 046 | Methyl bromide | X | - | - | - |
| 047 | Bromoform | X | - | - | - |
| 048 | Dichlorobromomethane | - | - | X | - |
| 049 | Trichlorofluoromethane | X | - | - | - |
| 050 | Dichlorodifluoromethane | X | - | - | - |
| 051 | Chlorodibromomethane | X | - | - | - |
| 052 | Hexachlorobuta-diene | X | - | - | - |
| 053 | Hexachlorocyclopenta-diene | X | - | - | - |
| 054 | Isophorone | - | - | - | X |
| 055 | Naphthalene | - | - | - | X |
| 056 | Nitrobenzene | - | - | X | - |
| 057 | 2-Nitrophenol | - | - | - | X |
| 058 | 4-Nitrophenol | - | - | X | - |
| 059 | 2,4-Dinitrophenol | - | - | X | - |
| 060 | 4,6-Dinitro-o-cresol | - | - | - | X |
| 061 | N-Nitrosodimethylamine | X | - | - | - |
| 062 | N-Nitrosodiphenylamine | X | - | - | - |
| 063 | N-Nitrosodi-n-propylamine | X | - | - | - |
| 064 | Pentachlorophenol | - | - | - | X |
| 065 | Phenol | - | - | - | X |

**Appendix B.—*Development of Regulated Pollutant List Iron and Steel Industry*—Continued**

| No. | Pollutant | Not detected | Unique occurrence | Not treatable | Regulation considered |
|---|---|---|---|---|---|
| 066 | Bis(2-ethylhexyl) phthalate | - | - | - | X |
| 067 | Butyl benzylphthalate | - | - | - | X |
| 068 | Di-n-butylphthalate | - | - | - | X |
| 069 | Di-n-ochylphthalate | - | - | - | X |
| 070 | Diethylphthalate | - | - | - | X |
| 071 | Dimethylphthalate | - | - | - | X |
| 072 | Benzo(a)anthracene | - | - | - | X |
| 073 | Benzo(a)pyrene | - | - | - | X |
| 074 | 3,4-Benzofluor-anthene | - | X | - | - |
| 075 | Benzo(k)fluoranthene | - | X | - | - |
| 076 | Chrysene | - | - | - | X |
| 077 | Acenaphthylene | - | - | - | X |
| 078 | Anthracene | - | - | - | X |
| 079 | Benzo(ghi)perylene | - | X | - | - |
| 080 | Fluorene | - | - | - | X |
| 081 | Phenathrene | - | - | - | X |
| 082 | Dibenzo(a,h)anthracene | - | X | - | - |
| 083 | Indeno(1,2,3,cd)pyrene | - | X | - | - |
| 084 | Pyrene | - | - | - | X |
| 085 | Tetrachloroethylene | - | - | - | X |
| 086 | Toluene | - | - | - | X |
| 087 | Trichloroethylene | - | - | X | - |
| 088 | Vinyl chloride | - | X | - | - |
| 089 | Aldrin | - | X | - | - |
| 090 | Dieldrin | - | X | - | - |
| 091 | Chlordane | - | X | - | - |
| 092 | 4,4'-DDT | - | X | - | - |
| 093 | 4,4'-DDE | - | X | - | - |
| 094 | 4,4'-DDD | - | X | - | - |
| 095 | a-endosulfan-Alpha | - | X | - | - |
| 096 | b-endosulfan-Beta | - | X | - | - |
| 097 | Endosulfansulfate | - | X | - | - |
| 098 | Endrin | - | X | - | - |
| 099 | Endrin aldehyde | - | X | - | - |
| 100 | Heptachlor | - | X | - | - |
| 101 | Heptachlor epoxide | - | X | - | - |
| 102 | a-BHC-Alpha | - | X | - | - |
| 103 | b-BHC-Beta | - | X | - | - |
| 104 | R-BHC-Gamma | - | X | - | - |
| 105 | g-BHC-Delta | - | X | - | - |
| 106 | PCB-1242 | - | X | - | - |
| 107 | PCB-1254 | - | X | - | - |
| 108 | PCB-1221 | - | X | - | - |
| 109 | PCB-1232 | - | X | - | - |
| 110 | PCB-1248 | - | X | - | - |
| 111 | PCB-1260 | - | X | - | - |
| 112 | PCB-1016 | - | X | - | - |
| 113 | Toxaphene | - | X | - | - |
| 114 | Antimony | - | - | - | X |
| 115 | Arsenic | - | - | - | X |
| 116 | Asbestos | X | - | - | - |
| 117 | Beryllium | - | - | X | - |
| 118 | Cadmium | - | - | - | X |
| 119 | Chromium | - | - | - | X |
| 120 | Copper | - | - | - | X |
| 121 | Cyanide | - | - | - | X |
| 122 | Lead | - | - | - | X |
| 123 | Mercury | - | - | X | - |
| 124 | Nickel | - | - | - | X |
| 125 | Selenium | - | - | - | X |
| 126 | Silver | - | - | - | X |
| 127 | Thallium | - | - | - | X |
| 128 | Zinc | - | - | - | X |
| 129 | 2,3,7,8-Tetra-chlorodibenzo-p-dioxin | X | - | - | - |
| 130 | Xylene | - | - | - | X |
| | Aluminum | - | - | - | X |
| | Ammonia | - | - | - | X |
| | Dissolved Iron | - | - | - | X |
| | Fluoride | - | - | - | X |
| | Hexavalent Chromium | - | - | - | X |
| | Manganese | - | X | - | - |
| | Oil and Grease | - | - | - | X |
| | pH | - | - | - | X |
| | Phenolic Compounds | - | - | - | X |
| | Sulfide | - | - | - | X |
| | Toltal Suspended Solids | - | - | - | X |

Key:
X indicates heading which applies to pollutant.

-Indicates heading which does not apply to pollutant.
Not Detected: Not detected in ay raw waste samples analyzed.
Unique Occurrence: Found at one or two plants at low levels.
Not Treatable: Detected at levels below practical treatability levels.
Req. Considered: Found in average concentrations of greater than 10ppb in at least one iron and steel subcategory.

**Appendix C.**—*Regulated Pollutant List, Iron and Steel Industry*

A. Cokemaking
- Total Suspended Solids
- Oil & Grease
- Ammonia
- Cyanide
- Phenols (4AAP)
- Benzene
- Naphthalene
- Benzo(a)pyrene
- pH

B. Sintering
- Total Suspended Solids
- Oil & Grease
- Ammonia
- Cyanide
- Phenols (4AAP)
- Total Residual Chlorine
- Lead
- Zinc
- pH

C. Ironmaking
- Total Suspended Solids
- Oil & Grease
- Ammonia
- Cyanide
- Phenols (4AAP)
- Total Residual Chlorine
- Lead
- Zinc
- pH

D. Steelmaking
1. Basic Oxygen Furnace
   - Total Suspended Solids
   - Chromium
   - Lead
   - Zinc
   - pH
2. Open Hearth Furnace
   - Total Suspended Solids
   - Chromium
   - Lead
   - Zinc
   - pH
3. Electric Arc Furnace
   - Total Suspended Solids
   - Chromium
   - Lead
   - Zinc
   - pH

E. Vacuum Degassing
- Total Suspended Solids
- Chromium
- Lead
- Zinc
- pH

F. Continuous Casting
- Total Suspended Solids
- Oil & Grease
- Chromium
- Lead
- Zinc
- pH

Hot Forming
- Total Suspended Solids
- Oil & Grease
- Chromium
- Lead
- Zinc
- pH

H. Scale Removal
1. Kolene
   - Total Suspended Solids
   - Chromium
   - pH
2. Hydride
   - Total Suspended Solids
   - Cyanide
   - Chromium
   - Lead
   - pH

I. Sulfuric Acid Pickling
- Total Suspended Solids
- Chromium
- Lead
- Zinc
- pH

J. Hydrochloric Acid Pickling
- Total Suspended Solids
- Chromium
- Lead
- Zinc
- pH

K. Combination Acid Pickling
- Total Suspended Solids
- Fluoride
- Chromium
- Copper
- Nickel
- pH

L. Cold Rolling
1. Recirculation and Combination
   - Total Suspended Solids
   - Oil & Grease
   - Chromium
   - Lead
   - Zinc
   - 1,1,1-Trichlorophenol
   - 2-Nitrophenol
   - Anthracene
   - Tetrachlororethylene
   - pH
2. Direct Application
   - Total Suspended Solids
   - Oil & Grease
   - Chromium
   - Zinc
   - pH

M. Alkaline Cleaning
- Total Suspended Solids
- Dissolved Iron
- pH

N. Hot Coating
- Total Suspended Solids
- Oil & Grease
- Cadmium
- Chromium
- Lead
- Zinc
- pH

**Appendix D.**—*Iron and Steel Model Treatment Summary*

| Subcategory | Levels of treatment | | | | | |
|---|---|---|---|---|---|---|
| | BPT | BAT | BCT | NSPS | PSNS | PSES |
| A. Cokemaking: | | | | | | |
| 1. By-product | Fixed still, recycle final cooler, settling basin, acid neturalization, single stage bio-oxidation, clarifier, vacuum filter. | Extended bio-oxidation recycle of barometric condenser, clarifier, filter. | (*) | (*) | (*) | (*) |
| 2. Beehive | Settling basin, 100% recycle. | (*) | (*) | (*) | (*) | (*) |
| B. Sintering | Polymer, thickener, vacuum filter, 93% recycle, acid neutralization. | 95% recycle, lime addition, alkaline chlorination, clarifier, acid neutralization (from BPT (system), filter, dechlorination. | 95% recycle, filter | (*) | (*) | (*) |
| C. Ironmaking | Polymer, thickener, vacuum filter, cooling tower, 96% recycle. | 98% recycle, lime addition, alkaline chlorination, clarifier, acid neutralization filter, dechlorination.[1] | 98% recycle clarifier. | (*) | (*) | (*) |
| D. Steelmaking: | | | | | | |
| All semi-wet operations | Lime neutralization (open hearth operations only) polymer, clarifier/thickener, vacuum filter, 100% recycle. | (*) | (*) | (*)—for BOF, EAF, (*)—for OH | (*) | (*) |
| Basic Oxygen Furnace (Wet) | Polymer, clarifier/thickener, vacuum filter, 95% recycle, acid neutralization. | Lime neutralization, inclined plate separator, filter, acid neutralization (from BPT system). | Filter | (*) | (*) | (*) |
| Open Hearth Furnace (Wet) | Lime neutralization and polymer addition, clarifier/thickener, vacuum filter, 94% recycle. | Lime addition, inclined plate separator, filter. | Filter | (*) | (*) | (*) |

**Appendix D.**—*Iron and Steel Model Treatment Summary*—Continued

| Subcategory | Levels of treatment | | | | | |
|---|---|---|---|---|---|---|
| | BPT | BAT | BCT | NSPS | PSNS | PSES |
| Electric Arc Furnace (Wet). | Polymer, clarifier/thickener, vacuum filter, 96% recycle. | Lime addition, inclined plate separator, filter. | | | | |
| E. Vacuum Degassing | Scale pit, cooling tower, 96% recycle. | Filter | (1) | (1) | (1) | (1). |
| F. Continuous Cooling | Scale pit, 96% recycle, flat bed filter, cooling tower. | 99% recycle, Filter | (1) | Scale pit, 99% recycle, flat bed filter, cooling tower. | (1) | (1). |
| G. Hot Forming: | | | | | | |
| Model 1 | Scale pit, 50% recycle, clarifier, vacuum filter, filter. | Cooling tower, 96% recycle | (1) | Scale pit, recycle, roughing clarifier, vacuum filter, cooling tower, recycle filter blowdown. | (1) | (1). |
| Model 2 | Scale pit, clarifier, vacuum filter, filter. | Cooling tower, 96% recycle | (1) | Scale pit, recycle, roughing clarifier, vacuum filter, cooling tower, recycle filter blowdown. | (1) | (1). |
| Model 3 | Scale pit, 50% recycle, settling lagoon. | Cooling tower, 96% recycle, filter. | (1) | Scale pit, recycle, roughing clarifier, vacuum filter, cooling tower, recycle filter blowdown. | (1) | (1) |
| H. Scale Removal: | | | | | | |
| 1. Kolene | Oil skimming, acid addition, chromium, reduction, lime, polymer, thickener, vacuum filter. | Filter | (1) | (1) (except settling basin in place of thickener). | (1) | (1). |
| 2. Hydride | Cyanide oxidation, acid and polymer addition, thickener, vacuum filter. | Filter | (1) | (1) (except settling basin in place of thickener). | (1) | (1) |
| I. Acid Pickling: | | | | | | |
| 1. Sulfuric: | | | | | | |
| a. Neutralization | Spent pickle liquor storage tank, FHS recycle, equalization of SPL, rinse water and fume hood scrubber blowdown, lime and polymer addition, aeration, settling basin. | Cascade Rinse | (1) | Acid recovery system (acid discharge) | (1) | (1) (except clarifier and vacuum filter in place of settling basin). |
| b. Acid Recovery | Spent acid storage system, cascade rinse, PHS recycle, acid recovery system (zero discharge). | (1) | (1) | (1) | (1) | (1) |
| 2. Hydrochloric: | | | | | | |
| a. Neutralization | Spent pickle liquor storage tank, FHS recycle, equalization of SPL, rinse water and fume hood scrubber blowdown, lime and polymer addition, aeration, thickener, vacuum filter. | Cascade Rinse | Batch—(1) Continuous—(2) plus a filter. | (1) (except clarifier in place of thickener). | (1) | (1) |
| b. Acid regeneration | Spent acid storage tank, acid regeneration systems, FHS recycle, equalization tank, lime and polymer addition, aeration, thickener, vacuum filter. | Cascade Rinse, AVS recycle | (1) plus a filter | (1) (except clarifier in place of thickener). | (1) | (1) |
| 3. Combination | Spent pickle liquor storage tank, FHS recycle, equalization of SPL, rinse water and fume hood scrubber blowdown, oil skimmer, lime and polymer, clarifier, vacuum filter. | Cascade Rinse | (1) | (1) | (1) | (1) (except no oil skimmer is provided). |
| J. Cold Forming: | | | | | | |
| 1. Cold Rolling | Alum, acid (for emulsion breaking), lime and polymer, air flotation, settling basin. | Filter | Recirculation: (1) Direct application and combination (1). | (1) and the requirement all new mills will be of the recirculation type. | (1) | (1). |
| 2. Pipe and Tube: | | | | | | |
| a. Water | Scale pit, oil skimmer, 100% recycle. | (1) | (1) | (1) | (1) | (1). |
| b. Oil | Scale pit, oil skimmer, recycle waste oil storage tank (contractor removal as required). | (1) | (1) | (1) | (1) | (1). |
| K. Alkaline Cleaning | Equalization tank with oil skimmer, acid and polymer, thickener, vacuum filter. | (1) | (1) | Equalization tank with oil skimmer, acid, polymer, aeration, settling basin, vacuum filter, filter. | (1) | (1). |
| L. Hot Casting | Lime and polymer, thickener, vacuum filter. | FHS recycle, Cascade Rinse | Same as BAT plus a filter (1). Same as BPT (1). Same as BAT (10). | (1) | (1) | (1). |

[1] No standards/limitations are presently proposed; therefore, no treatment model considered. [2] Same as BPT. [3] Same as BAT. [4] Same as BPT plus BAT. [5] Same as NSPS. [6] Only general pretreatment standards as proposed. [7] Approximately 60% of the iron making plants are expected to install 98% recycle and slag evaporation in place of BAT. [8] Applies to all galvanizing operations with and without scrubber, terne and other metals for sheet and strip operations with scrubbers. [9] Applies to all other metal coating operations without scrubbers. [10] Applies to terne sheet and strip operations without scrubbers, other metal coating operations, wire products and fasteners with scrubbers.

SPL: Spent Pickle Liquor. AVS: Absorber Vent Scrubber. FHS: Fume Hood Scrubber.

EPA proposes to amend Part 420 of CFR to read as follows:

## PART 420—IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

### General Provisions

Sec.


420.01 Applicability.
420.02 General Definitions.

**Subpart A—Cokemaking Subcategory**

420.10 Applicability; description of the cokemaking subcategory.
420.11 Specialized definitions.
420.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.14 New source performance standards (NSPS).
420.15 Pretreatment standards for existing sources (PSES).
420.16 Pretreatment standards for new sources (PSNS).
420.17 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

**Subpart B—Sintering Subcategory**

420.20 Applicability; description of the sintering subcategory.
420.21 Specialized defintions.
420.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.24 New source performance standards (NSPS).
420.25 Pretreatment standards for existing sources (PSES).
420.26 Pretreatment standards for new sources (PSNS).
420.27 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

**Subpart C—Ironmaking Subcategory**

420.30 Applicability; description of the ironmaking subcategory.
420.31 Specialized definitions.
420.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.34 New source performance standards (NSPS).
420.35 Pretreatment standards for existing sources (PSES).
420.36 Pretreatment standards for new sources (PSNS).
420.37 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

**Subpart D—Steelmaking Subcategory**

420.40 Applicability; description of the steelmaking subcategory.
420.41 Specialized definitions.
420.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.44 New source performance standards (NSP).
420.45 Pretreatment standards for existing sources (PSES).
420.46 Pretreatment standards for new sources (PSNS).
420.47 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

**Subpart E—Vacuum Degassing Subcategory**

420.50 Applicability; description of the vacuum degassing subcategory.
420.51 Specialized definitions.
420.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.54 New source performance standards (NSPS).
420.55 Pretreatment standards for existing sources (PSES).
420.56 Pretreatment standards for new sources (PSNS).
420.57 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

**Subpart F—Continuous Casting Subcategory**

420.60 Applicability; description of the continuous casting subcategory.
420.61 Special definitions.
420.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.64 New source performance standards (NSPS).
420.65 Pretreatment standards for existing sources (PSES).
420.66 Pretreatment standards for new sources (PSNS).
420.67 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

**Subpart G—Hot Forming Subcategory**

420.70 Applicability; description of the hot forming subcategory.
420.71 Specialized definitions.
420.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.74 New source performance standards (NSPS).
420.75 Pretreatment standards for existing sources (PSES).
420.76 Pretreatment Standards for new sources (PSNS).
420.77 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

**Subpart H—Scale Removal Subcategory**

420.80 Applicability; description of the scale removal subcategory.
420.81 Specialized definitions.
420.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.84 New source performance standards (NSPS).
420.85 Pretreatment standards for existing sources (PSES).
420.86 Pretreatment standards for new sources (PSNS).
420.87 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

**Subpart I—Acid Pickling Subcategory**

420.90 Applicablity; description of the acid pickling subcategory.
420.91 Specialized definitions.
420.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available

technology economically achievable (BAT).
420.94 New source performance standards (NSPS).
420.95 Pretreatment standards for existing sources (PSES).
420.96 Pretreatment standards for new sources (PSNS).
420.97 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart J—Cold Forming Subcategory

420.100 Applicability; description of the cold forming subcategory.
420.101 Specialized definitions.
420.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.104 New source performance standards (NSPS).
420.105 Pretreatment standards for existing sources (PSES).
420.106 Pretreatment standards for new sources (PSNS).
420.107 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart K—Alkaline Cleaning Subcategory

420.110 Applicability; description of the alkaline cleaning subcategory.
420.111 Specialized definitions.
420.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.114 New source performance standards (NSPS).
420.115 Pretreatment standards for existing sources (PSES).
420.116 Pretreatment standards for new sources (PSNS).
420.117 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart L—Hot Coating Subcategory

420.120 Applicability; description of the hot coating—galvanizing subcategory.
420.121 Specialized definitions.
420.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.124 New source performance standards (NSPS).
420.125 Pretreatment standards for existing sources (PSES).
420.126 Pretreatment standards for new sources (PSNS).
420.127 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Authority: Sec. 301; 304(b), (c), (e), and (g); 306(b) and (c); 307; 308 and 501, Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 USC 1311; 1314(b), (c), (e), and (g); 1316(b) and (c); 1317; 1318; and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567; Pub. L. 95-217.

## General Provisions

### § 420.01 Applicability.

The provisions of this part apply to discharges and to the introduction of pollutants into a publicly owned treatment works resulting from production operations in the Iron and Steel Point Source Category.

### § 420.02 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) The term "TSS" (or total suspended solids, or total suspended residue) means the value obtained by the method specified in 40 CFR § 136.3.

(b) The term "oil and grease" (or O&G) means the value obtained by the method specified in 40 CFR § 136.3

(c) The term "ammonia-N" (or ammonia-nitrogen) means the value obtained by the manual distillation (at pH 9.5) followed by nesslerization method specified in 40 CFR § 136.3.

(d) The term "cyanide" means total cyanide and is determined by the method specified in 40 CFR § 136.3.

(e) The term "phenols 4AAP" (or phenolic compounds) means the value obtained by the method specified in 40 CFR § 136.3

(f) The term "TRC" (or total residual chlorine) means the value obtained by the iodometric titration with an amperometric endpoint method specified in 40 CFR § 136.3

(g) The term "fluoride" means the value obtained by the method specified in 40 CFR § 136.3.

(h) The term "cadmium" means total cadmium and is determined by the method specified in 40 CFR § 136.3.

(i) The term "chromium" means total chromium and is determined by the method specified in 40 CFR § 136.3.

(j) The term "hexavalent chromium" (or chromium VI) means the value obtained by the method specified in 40 CFR § 136.3.

(k) The term "copper" means total copper and is determined by the method specified in 40 CFR § 136.3.

(l) The term "iron, dissolved" means the value obtained by the method specified in 40 CFR § 136.3.

(m) The term "lead" means total lead and is determined by the method specified in 40 CFR § 136.3.

(n) The term "nickel" means total nickel and is determined by the method specified in 40 CFR § 136.3.

(o) The term "zinc" means total zinc and is determined by the method specified in 40 CFR § 136.3.

(p) The term "benzene" (or priority pollutant No. 4) means the value obtained by the standard method Number 602 specified in 44 FR 69464, 69570 (December 3, 1979).

(q) The term "benzo (a) pyrene" (or priority pollutant No. 73 means the value obtained by the standard method Number 610 specified in 44 FR 69464, 69570 (December 3, 1979).

(r) The term "naphthalene" (or priority pollutant No. 55) means the value obtained by the standard method Number 610 specified in 44 FR 69464, 69571 (December 3, 1979).

(s) The term "1,1,1-trichloroethane" (or priority pollutant No. 11) means the value obtained by the standard method specified in 44 FR 69464, 69572 (December 3, 1979).

(t) The term "2-nitrophenol" (or priority pollutant No. 57) means the value obtained by the standard method Number 604 specified in 44 FR 69464, 69571 (December 3, 1979).

(u) The term "anthracene" (or priority pollutant No. 78) means the value obtained by the standard method Number 610 specified in 44 FR 69464, 69570 (December 3, 1979).

(v) The term "tetrachloroethylene" (or priority pollutant No. 85) means the value obtained by the standard method Number 601 specified in 44 FR 69464, 69572 (December 3, 1979).

(w) The term "pH" means the value obtained by the standard method specified in 40 CFR § 136.3.

## Subpart A—Cokemaking Subcategory

### § 420.10 Applicability; description of the cokemaking subcategory.

The provisions of this subpart are applicable to discharges and introduction of pollutants into publicly owned treatment works resulting from by-product and beehive cokemaking operations.

### § 420.11 Specialized definitions.

(a) The term "beehive cokemaking" means those operations in which coal is heated with the admission of air in

controlled amounts for the purpose of producing coke. There are no by-product recovery operations associated with beehive cokemaking operations.

(b) The term "By-Product" cokemaking means those cokemaking operations in which coal is heated in the absence of air to produce coke. In this process, by-products are recovered from the gases and liquids driven from the coal during cokemaking.

(c) The term "wet desulfurization system" means those systems which remove sulfur compounds from coke oven gases and produce a contaminated process wastewater.

(d) The term "indirect ammonia recovery system" means those systems which recover ammonium hydroxide as a by-product from coke oven gases and waste ammonia liquors.

(e) The term "physical chemcial treatment system" means those full scale coke plant wastewater treatment systems incorporating full scale granular activated carbon adsorption units which were in operation prior to the date of proposal of this regulation.

**§ 420.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *By-Product cokemaking.*

**Subpart A**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.2250 | 0.0750 |
| O&G | .0327 | .0109 |
| Ammonia-N | .2736 | .0912 |
| Cyanide | .0657 | .0219 |
| Phenols (4AAP) | .0045 | .0015 |
| pH—Within the range of 6.0 to 9.0. | | |

(1) Increased loadings, not to exceed 15 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 30 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent that such systems generate an increased effluent volume.

(b) *Beehive cokemaking.* No discharge of process wastewater pollutants to navigable waters.

**§ 420.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *By-Product Cokemaking.*

**Subpart A**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| Ammonia-N | 0.05110 | 0.00957 |
| Cyanide | .00320 | .00160 |
| Phenols (4AAP) | .0000640 | .0000160 |
| Benzene | .0000638 | .0000319 |
| Naphthalene | .0000128 | .0000064 |
| Benzo(a)pyrene | .0000256 | .0000128 |

(1) Increased loadings, not to exceed 16 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 33 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(3) The following BAT effluent limitations apply to by-product coke plants with physical chemical treatment systems:

**Subpart A**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| Ammonia-N | 0.05160 | 0.02580 |
| Phenols (4AAP) | .0000860 | .0000215 |
| Benzene | .0000430 | .0000215 |
| Naphthalene | .0000086 | .0000043 |
| Benzo(a)pyrene | .0000172 | .0000086 |

Increased loadings, not to exceed 25 percent of the above limitations, are allowed for by-product coke plants with physical chemical treatment systems which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(b) *Beehive cokemaking.* No discharge of process wastewater pollutants to navigable waters.

**§ 420.14 New source performance standards.**

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *By-Product cokemaking.*

**Subpart A**

| Pollutant or pollutant property | New source performance standards | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.34418 | 0.01280 |
| Oil & grease | .00638 | |
| Ammonia-N | .05110 | .00957 |
| Cyanide | .00320 | .00160 |
| Phenols (4AAP) | .0000640 | .0000160 |
| Benzene | .0000638 | .0000319 |
| Naphthalene | .0000128 | .0000064 |
| Benzo(a)pyrene | .0000256 | .0000128 |
| ph—within the range of 6.0 to 9.0. | | |

(1) Increased loadings, not to exceed 16 percent of the above standards, are allowed for by-product coke plants which have wet disulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 33 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(b) *Beehive cokemaking.* No discharge of process wastewater pollutants to navigable waters.

**§420.15 Pretreatment standards for existing sources.**

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *By-Product cokemaking.*

**Subpart A**

| Pollutant or pollutant property | Pretreatment standards for existing sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| Ammonia-N | 0.05110 | 0.00957 |
| Cyanide | .00320 | .00160 |
| Phenols (4AAP) | .0000640 | .0000160 |
| Benzene | .0000638 | .0000319 |
| Naphthalene | .0000128 | .0000064 |
| Benzo(a)pyrene | .0000256 | .0000128 |

(1) Increased loadings, not to exceed 16 percent of the above standards, are allowed for by-product coke plants which have wet disulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 33 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(3) The following pretreatment standards for existing sources apply to by-product coke plants with physical chemical treatment systems:

**Subpart A**

| Pollutant or pollutant property | Pretreatment standards for existing sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Ammonia-N | 0.05160 | 0.02580 |
| Phenols(4AAP) | .0000860 | .0000215 |
| Benzene | .0000430 | .0000215 |
| Naphthalene | .0000086 | .0000043 |
| Benzo(a)pyrene | .0000172 | .0000086 |

Increased loadings, not to exceed 25 percent of the above standards, are allowed for by-product coke plants with physical chemical treatment systems which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(b) *Beehive cokemaking.* [Reserved]

**§ 420.16 Pretreatment standards for new sources.**

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *By-Product cokemaking.*

**Subpart A**

| Pollutant or pollutant property | Pretreatment standards for new sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Ammonia-N | 0.05110 | 0.00957 |
| Cyanide | .00320 | .00160 |
| Phenols(4AAP) | .0000640 | .0000160 |
| Benzene | .0000638 | .0000319 |
| Naphthalene | .0000128 | .0000064 |
| Benzo(a)pyrene | .0000256 | .0000128 |

(1) Increased loadings, not to exceed 16 percent of the above standards, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 33 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(b) *Beehive cokemaking.* [Reserved]

**§ 420.17 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollution control technology.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology:

(a) *By-Product cokemaking.*

**Subpart A**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.03418 | 0.01280 |
| O&G | .00638 | |
| pH—Within the range of 6.0 to 9.0. | | |

(1) Increased loadings, not to exceed 16 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 33 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(3) The following BCT effluent limitations apply to by-product coke plants with physical chemical treatment systems:

**Subpart A**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02294 | 0.00659 |
| O&G | .00430 | |
| pH—Within the range of 6.0 to 9.0. | | |

Increased loadings, not to exceed 25 percent of the above limitations, are allowed for by-product coke plants with physical chemical treatment systems which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(b) Beehive Cokemaking.

No discharge of process wastewater pollutant to navigable waters.

## Subpart B—Sintering Subcategory

**§ 420.20 Applicability; description of the sintering subcategory.**

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from sintering operations conducted by the heating of iron bearing wastes (mill scale and dust from blast furnaces and steelmaking furnaces) together with fine iron ore, limestone, and coke fines in an ignition furnace and traveling grate to produce an agglomerate for charging to the blast furnace.

**§ 420.21 Specialized definitions [Reserved]**

**§ 420.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

**Subpart B**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0624 | 0.0208 |
| O&G | .0126 | .0042 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

Except as provided in 40 CFR §§ 124.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

**Subpart B**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Ammonia-N | 0.0006260 | 0.0003130 |
| Cyanide | .0001564 | .0000782 |
| Phenols(4AAP) | .0000626 | .0000313 |
| TRC | .0001560 | |
| Lead | .0000626 | .0000313 |
| Zinc | .0000626 | .0000313 |

**§ 402.24 New source performance standards.**

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

**Subpart B**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01252 | 0.00469 |
| O&G | .00313 | |
| Ammonia-N | .0006260 | .0003130 |
| Cyanide | .0001564 | .0000782 |
| Phenols(4AAP) | .0000626 | .0000313 |
| TRC | .0001560 | |
| Lead | .0000626 | .0000313 |
| Zinc | .0000626 | .0000313 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.25 Pretreatment standards for existing sources.**

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

**Subpart B**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Ammonia-N | 0.0006260 | 0.0003130 |
| Cyanide | .0001564 | .0000782 |
| Phenols(4AAP) | .0000626 | .0000313 |
| TRC | .0001560 | |
| Lead | .0000626 | .0000313 |
| Zinc | .0000626 | .0000313 |

**§ 420.26 Pretreatment standards for new sources.**

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

**Subpart B**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Ammonia-N | 0.0006260 | 0.0003130 |
| Cyanide | .0001564 | .0000782 |
| Phenols (4AAP) | .0000626 | .0000313 |
| TRC | .0001560 | |
| Lead | .0000626 | .0000313 |
| Zinc | .0000626 | .0000313 |

**§ 420.27 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

**Subpart B**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01252 | 0.00469 |
| O&G | .00313 | |
| pH—Within the range of 6.0 to 9.0. | | |

## Subpart C—Ironmaking Subcategory

**§ 420.30 Applicability; description of the ironmaking subcategory.**

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from ironmaking operations in which iron ore is reduced to molten iron in a blast furnace.

**§ 420.31 Specialized definitions.**

(a) The term "ferromanganese blast furnace" means those blast furnaces which produce molten iron containing more than fifty percent manganese.

(b) The term "iron blast furnace" means all blast furnaces except ferromanganese blast furnaces.

**§ 420.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Iron Blast Furnace.*

**Subpart C**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0780 | 0.0260 |
| Ammonia-N | .1605 | .0535 |
| Cyanide | .0234 | .0078 |
| Phenols (4AAP) | .0063 | .0021 |
| pH—Within the range of 6.0 to 9.0. | | |

*Ferromanganese Blast Furnace.*

**Subpart C**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.3129 | 0.1043 |
| Ammonia-N | 1.2861 | .4287 |
| Cyanide | .4689 | .1563 |
| Phenols (4AAP) | .0624 | .0208 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Iron Blast Furnace.*

**Subpart C**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Ammonia-N | 0.000584 | 0.000292 |
| Cyanide | .000584 | .000292 |
| Phenols (4AAP) | .000584 | .0000292 |
| TRC | .000146 | |
| Lead | .0002190 | .0000730 |
| Zinc | .0002628 | .0000876 |

(b) *Ferromanganese Blast Furnace.* [Reserved]

**§ 420.34 New source performance standards.**

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Iron Blast Furnace.*

**Subpart C**

| Pollutant or pollutant property | New source performance standards | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01169 | 0.00438 |
| O&G | .00292 | |
| Ammonia-N | .000584 | .000292 |
| Cyanide | .000584 | .000292 |
| Phenols (4AAP) | .0000584 | .0000292 |
| TRC | .000146 | |

**Subpart C—Continued**

| Pollutant or pollutant property | New source performance standards | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| Lead | .0002190 | .0000730 |
| Zinc | .0002628 | .0000876 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Ferromanganese Blast Furnace.* [Reserved]

**§ 420.35 Pretreatment standards for existing sources.**

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Iron Blast Furnace.*

**Subpart C**

| Pollutant or pollutant property | Pretreatment standards for existing sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| Ammonia-N | 0.000584 | 0.000292 |
| Cyanide | .000584 | .000292 |
| Phenols (4AAP) | .0000584 | .0000292 |
| TRC | .000146 | |
| Lead | .0002190 | .0000730 |
| Zinc | .0002628 | .0000876 |

(b) *Ferromanganese Blast Furnace.* [Reserved]

**§ 420.36 Pretreatment standards for new sources.**

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Iron Blast Furnace.*

**Subpart C**

| Pollutant or pollutant property | Pretreatment standards for new sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| Ammonia-N | 0.000584 | 0.000292 |
| Cyanide | .000584 | .000292 |
| Phenols (4AAP) | .0000584 | .0000292 |
| TRC | .000146 | |

**Subpart C—Continued**

| Pollutant or pollutant property | Pretreatment standards for new sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| Lead | .0002190 | .0000730 |
| Zinc | .0002628 | .0000876 |

(b) *Ferromanganese Blast Furnace.* [Reserved]

**§ 420.37 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available conventional control technology.

(a) *Iron Blast Furnace.*

**Subpart C**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.01169 | 0.00438 |
| O&G | .00292 | |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Ferromanganese Blast Furnace.* [Reserved]

## Subpart D—Steelmaking Subcategory

**§ 420.40 Applicability; description of the steelmaking subcategory.**

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from steelmaking operations conducted in basic oxygen, open hearth, and electric arc furnaces.

**§ 420.41 Specialized definitions.**

(a) The term "basic oxygen furnace steelmaking" means the production of steel from molten iron, steel scrap, fluxes, and various combinations thereof, in refractory lined furnaces by adding oxygen.

(b) The term "open hearth furnace steelmaking" means the production of steel from molten iron, steel scrap, fluxes, and various combinations thereof, in refractory lined fuel-fired furnaces equipped with regenerative chambers to recover heat from the flue and combustion gases.

(c) The term "electric arc furnace steelmaking" means the production of steel principally from steel scrap and fluxes in refractory lined furnaces by passing an electric current through the scrap or steel bath.

(d) The term "wet" means those steelmaking air cleaning systems that primarily use water for furnace gas cleaning.

(e) The term "semi-wet" means those steelmaking air cleaning systems that use water to condition the temperature and humidity of furnace gases such that the gases may be cleaned in dry air pollution control systems.

(f) The term "open combustion" means those basic oxygen furnace steelmaking wet air cleaning systems which are designed to allow excess air to enter the air pollution control system for the purpose of combusting the carbon monoxide in furnance gases.

(g) The term "suppressed combustion" means those basic oxygen furnace steelmaking wet air cleaning systems which designed to limit or suppress the combustion of carbon monoxide in furnace gases by restricting the amount of excess air entering the air pollution control system.

**§ 420.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Basic oxygen furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet-suppressed combustion.*

**Subpart D**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.0312 | 0.0104 |
| pH—Within the range of 6.0 to 9.0. | | |

(3) *Wet-open combustion.*

**Subpart D**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.0312 | 0.0104 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Open hearth furnace steelmaking*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

**Subpart D**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 1b) of product | |
| TSS | 0.0687 | 0.0229 |
| pH—Within the range of 6.0 to 9.0. | | |

(c) *Electric arc furnace steelmaking.*—(1) *Semi-wet.*

No discharge of process wastewater polutants to navigable waters.

(2) *Wet.*

**Subpart D**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0312 | 0.0104 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Basic oxygen furnace steelmaking.*—

(1) *Semi-wet.*—No discharge of process wastewater pollutants to navigable waters.

(2) *Wet-suppressed combustion.*

**Subpart D**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000624 | 0.0000208 |
| Lead | .000188 | .0000626 |
| Zinc | .000188 | .0000626 |

(3) *Wet-open combustion*

**Subpart D**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cromium | 0.0002034 | 0.0000678 |
| Lead | .0002034 | .0000678 |
| Zinc | .0002439 | .0000813 |

(b) *Open hearth furnace steelmaking.*—(1) *Semi-wet.*

(b) *Open hearth furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

**Subpart D**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one-day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001377 | 0.0000459 |
| Lead | .0002064 | .0000688 |
| Zinc | .000414 | .000138 |

(c) *Electric arc furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

**Subpart D**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one-day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000939 | 0.0000313 |
| Lead | .0001878 | .0000626 |
| Zinc | .0002190 | .0000730 |

**§ 420.44 New source performance standards.**

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Basic oxygen furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet-suppressed combustion.*

**Subpart D**

| Pollutant or pollutant property | New source performance standards | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.008357 | 0.003130 |
| Chromium | .0000624 | .0000208 |
| Lead | .000188 | .0000626 |
| Zinc | .000188 | .0000626 |
| pH—Within the range of 6.0 to 9.0. | | |

(3) *Wet-open combustion.*

**Subpart D**

| Pollutant or pollutant property | New source performance standards | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01087 | 0.00407 |
| Chromium | .0002034 | .0000678 |
| Lead | .0002034 | .0000678 |
| Zinc | .0002439 | .0000813 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Open hearth furnace steelmaking.*—(1) *Semi-wet.* [Reserved]

(2) *Wet.* [Reserved]

(c) *Electric arc furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

**Subpart D**

| Pollutant or pollutant property | New source performance standards | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.008357 | 0.003130 |
| Chromium | .0000939 | .0000313 |
| Lead | .0001878 | .0000626 |
| Zinc | .0002190 | .0000730 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.45 Pretreatment standards for existing sources.**

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Basic oxygen furnace steelmaking.* (1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet-suppressed combustion.*

**Subpart D**

| Pollutant or pollutant property | Pretreatment standards for existing sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000624 | 0.0000208 |
| Lead | .000188 | .0000626 |
| Zinc | .000188 | .0000626 |

(3) *Wet-open combustion.*

**Subpart D**

| Pollutant or pollutant property | Pretreatment standards for existing sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002034 | 0.0000678 |
| Lead | .0002034 | .0000678 |
| Zinc | .0002439 | .0000813 |

(b) *Open hearth furnace steelmaking.* (1) *Semi-wet.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Wet.*

**Subpart D**

| Pollutant or pollutant property | Pretreatment standards for existing sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001377 | 0.0000459 |
| Lead | .0002064 | .0000688 |
| Zinc | .000414 | .000138 |

(c) *Electric arc furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Wet.*

**Subpart D**

| Pollutant or pollutant property | Pretreatment standards for existing sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000939 | 0.0000313 |
| Lead | .0001878 | .0000626 |
| Zinc | .0002190 | .0000730 |

**§ 420.46 Pretreatment standards for new sources.**

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Basic oxygen furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Wet-suppressed combustion.*

**Subpart D**

| Pollutant or pollutant property | Pretreatment standards for new sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000624 | 0.0000208 |
| Lead | .000188 | .0000626 |
| Zinc | .000188 | .0000626 |

(3) Wet-open combustion.

**Subpart D**

| Pollutant or pollutant property | Pretreatment standards for new sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002034 | 0.0000678 |
| Lead | .0002034 | .0000678 |
| Zinc | .0002439 | .0000813 |

(b) *Open hearth furnace steelmaking.*—(1) *Semi-wet.* [Reserved]

(2) *Wet.* [Reserved]

(c) *Electric arc furnace steelmaking.*—(1) *Semi-wet.* No discharge of process

wastewater pollutants to publicly owned treatment works.

(2) *Wet.*

**Subpart D**

| Pollutant or pollutant property | Pretreatment standards for new sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000939 | 0.0000313 |
| Lead | .0001878 | .0000626 |
| Zinc | .0002190 | .0000730 |

**§420.47 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Basic oxygen furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet-suppressed combustion.*

**Subpart D**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.006357 | 0.00313 |
| pH—Within the range of 6.0 to 9.0. | | |

(3) *Wet-open combustion.*

**Subpart D**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01087 | 0.00407 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Open hearth furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

**Subpart D**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01637 | 0.00686 |
| pH—Within the range of 6.0 to 9.0. | | |

(c) Electric arc furnace steelmaking.

(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

**Subpart D**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.0312 | 0.0104 |
| pH—Within the range of 6.0 to 9.0. | | |

## Subpart E—Vacuum Degassing Subcategory

**§ 420.50 Applicability; description of the vacuum degassing subcategory.**

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from vacuum degassing operations conducted by applying a vacuum to molten steel.

**§ 420.51 Specialized definitions [Reserved]**

**§ 420.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

**Subpart E**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.01563 | 0.00521 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

**Subpart E**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| Chromium | 0.0000312 | 0.0000104 |
| Lead | .0000312 | .0000104 |
| Zinc | .0000312 | .0000104 |

**§ 420.54 New source performance standards.**

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the values set forth below.

**Subpart E**

| Pollutant or pollutant property | New source performance standards | |
|---|---|---|
| | Maximum for any one day | Average of Daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.00417 | 0.00156 |
| Chromium | .0000312 | 0000104 |
| Lead | .0000312 | 0000104 |
| Zinc | .0000312 | 0000104 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.55 Pretreatment standards for existing sources.**

Except as provided in 40 CFR §§403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

**Subpart E**

| Pollutant or pollutant property | Pretreatment standards for existing sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000312 | 0.0000104 |
| Lead | .0000312 | .0000104 |
| Zinc | .0000312 | .0000104 |

**§ 420.56 Pretreatment standards for new sources.**

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

**Subpart E**

| Pollutant or pollutant property | Pretreatment standards for new sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000312 | 0.0000104 |
| Lead | .0000312 | .0000104 |
| Zinc | .0000312 | .0000104 |

**§ 420.57 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

**Subpart E**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01563 | 0.00521 |
| pH—Within the range of 6.0 to 9.0. | | |

## Subpart F—Continuous Casting Subcategory

**§ 420.60 Applicability; description of the continuous casting subcategory.**

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from the continuous casting of molten steel into intermediate or semi-finished steel products through water cooled molds.

**§ 420.61 Specialized definitions. [Reserved]**

**§ 420.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

**Subpart F**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0780 | 0.0260 |
| Oil and Grease | .0234 | .0078 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.63 Effluent limitations representing the degree of effluent reduction attainable by the appliation of the best available technology economically achievable.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

**Subpart F**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000312 | 0.0000104 |
| Lead | .0000312 | .0000104 |
| Zinc | .0000312 | .0000104 |

**§ 420.64 New source performance standards.**

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

**Subpart F**

| Pollutant or pollutant property | New source performance standards | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TTS | 0.00417 | 0.00156 |
| O&G | .00104 | |
| Chromium | .0000312 | .0000104 |
| Lead | .0000312 | .0000104 |
| Zinc | .0000312 | .0000104 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.65 Pretreatment standards for existing sources.**

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

**Subpart F**

| Pollutant or pollutant property | Pretreatment standards for existing sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000312 | 0.0000104 |
| Lead | .0000312 | .0000104 |
| Zinc | .0000312 | .0000104 |

**§ 420.66 Pretreatment standards for new sources.**

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

**Subpart F**

| Pollutant or pollutant property | Pretreatment standards for new sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000312 | 0.0000104 |
| Lead | .0000312 | .0000104 |

**Subpart F—Continued**

| Pollutant or pollutant property | Pretreatment standards for new sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| Zinc | .0000312 | .0000104 |

**§ 420.67 Effluent limitations representing the degree of effluent reduction achievable by the application of the best conventional control technology.**

Except as provided in 40 CFR §§ 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

**Subpart F**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.00417 | 0.00156 |
| Oil & Grease | .00104 | |
| pH—Within the range of 6.0 to 9.0. | | |

## Subpart G—Hot Forming Subcategory

**§ 420.70 Applicability; description of the hot forming subcategory.**

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from hot forming operations conducted in primary, section, flat, and pipe and tube mills.

**§ 420.71 Specialized definitions.**

(a) The term "hot forming" means those steel operations in which solidified, heated steel is shaped by rolls.

(b) The term "primary mill" means those steel hot forming operations that reduce ingots to blooms or slabs by passing the ingots between rotating steel rolls. The "primary mill" performs the first steel hot forming operation on solidified steel after its is removed from the ingot molds.

(c) The term "section mill" means those steel hot forming operations that produce a variety of finished and semi-finished steel products other than the products of those mills specified below in subsections (d), (e), (f), (g) and (h).

(d) The term "flat mill" means those steel hot forming operations that reduce heated slabs to plates, strip and sheet, or skelp.

(e) The term "pipe and tube mill" means those steel hot forming operations that produce butt welded or seamless tubular steel products.

(f) The term "scarfing" means those steel surface conditioning operations in which flames generated by oxygen and fuel are used to remove surface metal imperfections from slabs, billets, or blooms.

(g) The term "plate mill" means those steel hot forming operations that produce flat hot-rolled products which are (1) betwen 8 and 48 inches wide and over 0.23 inches thick; or (2) greater than 48 inches wide and over 0.18 inches thick.

(h) The term "hot strip and sheet mill" means those steel hot forming operations that produce flat hot-rolled products other than plates.

(i) The term "specialty steel" means those steel products which contain: (1) any of the following elements at levels above the specified percentages, by weight: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or

(2) any of the following elements when added to enhance the properties of the steel product: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, vanadium or zirconium.

(j) The term "carbon steel" means those steel products other than specialty steel products.

(k) The term "carbon hot forming operation" (or "carbon") means those hot forming operations which produce a majority, on a tonnage basis, of carbon steel products.

(l) The term "specialty hot forming operations" (or "specialty") applies to all hot forming operations other than "carbon hot forming operations."

**§ 420.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best particable control technology currently available.

(a) *Primary mills.* (1) *Carbon, without scarfing.*

**Subpart G**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| TTS | 0.1113 | 0.0371 |
| O&G | .0864 | .0288 |
| ph—Within the range of 6.0 to 9.0. | | |

(2) *Carbon with scarfing.*

**Subpart G**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| TTS | 0.1359 | 0.0453 |
| O&G | .1056 | .0352 |
| ph—Within the range of 6.0 to 9.0. | | |

(3) *Specialty.*

**Subpart G**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive day |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1962 | 0.0654 |
| O&G | .1524 | .0508 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) Section mills.

**Subpart G**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive day |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0726 | 0.242 |
| O&G | .330 | .110 |
| pH—Within the range of 6.0 to 9.0. | | |

(c) *Flat mills.*

(1) Hot strip and sheet mills.

**Subpart G**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive day |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.993 | 0.331 |
| O&G | .522 | .174 |
| pH—Within the range of 6.0 to 9.0. | | |

(2) Carbon plate mills.

**Subpart G**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive day |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.501 | 0.167 |
| O&G | .501 | .167 |
| pH—Within the range of 6.0 to 9.0. | | |

(3) *Specialty plate mills.*

**Subpart G**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive day |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 1.128 | 0.376 |
| O&G | 1.128 | .376 |
| pH—Within the range of 6.0 to 9.0. | | |

(d) Pipe and tube mills.

**Subpart G**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive day |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.426 | 0.142 |
| O&G | .126 | .042 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Primary mills.*

(1) Without scarfing.

**Subpart G**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive day |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001125 | 0.0000375 |
| Lead | .0001125 | .0000375 |
| Zinc | .0001125 | .0000375 |

(2) With scarfing.

**Subpart G**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive day |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001752 | 0.0000584 |
| Lead | .0001752 | .0000584 |
| Zinc | .0001752 | .0000584 |

(b) *Section mills.*

(1) Carbon

**Subpart G**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002502 | 0.0000834 |
| Lead | .0002502 | .0000834 |
| Zinc | .0002502 | .0000834 |

(2) Specialty

**Subpart G**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001626 | 0.0000542 |
| Lead | .0001626 | .0000542 |
| Zinc | .0001626 | .0000542 |

(c) *Flat mills.*

(1) Hot strip and sheet mills

**Subpart G**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.000324 | 0.000108 |
| Lead | .000324 | .000108 |
| Zinc | .000324 | .000108 |

(2) Carbon plate mills

**Subpart G**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001752 | 0.0000584 |
| Lead | .0001752 | .0000584 |
| Zinc | .0001752 | .0000584 |

(3) Specialty plate mills

**Subpart G**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000750 | 0.0000250 |
| Lead | .0000750 | .0000250 |
| Zinc | .0000750 | .0000250 |

(d) Pipe and tube mills

**Subpart G**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002751 | 0.0000917 |
| Lead | .0002751 | .0000917 |
| Zinc | .0002751 | .0000917 |

**§ 420.74 New source performance standards.**

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) Primary mills

(1) Without scarfing

**Subpart G**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01503 | 0.00563 |
| O&G | .00373 | |
| Chromium | .0001125 | .0000375 |
| Lead | .0001125 | .0000375 |
| Zinc | .0001125 | .0000375 |
| pH—Within the range of 6.0 to 9.0. | | |

(2) With scarfing

**Subpart G**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02339 | 0.00876 |
| O&G | .00584 | |
| Chromium | .0001752 | .0000584 |
| Lead | .0001752 | .0000584 |
| Zinc | .0001752 | .0000584 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) Section mills.

(1) Carbon

**Subpart G**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.03338 | 0.01250 |
| O&G | .00834 | |
| Chromium | .0002502 | .0000834 |
| Lead | .0002502 | .0000834 |
| Zinc | .0002502 | .0000834 |
| pH—Within the range of 6.0 to 9.0. | | |

(2) Specialty

**Subpart G**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02171 | 0.00813 |
| O&G | .00542 | |
| Chromium | .0001626 | .0000542 |
| Lead | .0001626 | .0000542 |
| Zinc | .0001626 | .0000542 |
| pH—Within the range of 6.0 to 9.0. | | |

(c) Flat mills.

(1) Hot strip and sheet mills

**Subpart G**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.04352 | 0.01630 |
| O&G | .01090 | |
| Chromium | .000324 | .0000108 |
| Lead | .000324 | .0000108 |
| Zinc | .000324 | .0000108 |
| pH—Within the range of 6.0 to 9.0. | | |

(2) Carbon plate mills

**Subpart G**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02339 | 0.00876 |
| O&G | .00584 | |
| Chromium | .0001752 | .0000584 |
| Lead | .0001752 | .0000584 |
| Zinc | .0001752 | .0000584 |
| pH—Within the range of 6.0 to 9.0. | | |

(3) Specialty plate mills

**Subpart G**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.01001 | 0.00375 |
| O&G | .00250 | |
| Chromium | .0000750 | .0000250 |
| Lead | .0000750 | .0000250 |
| Zinc | .0000750 | .0000250 |
| pH—Within the range of 6.0 to 9.0. | | |

(d) *Pipe and tube mills.*

**Subpart G**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.03685 | 0.01380 |
| O&G | .00917 | |
| Chromium | .0002751 | .0000917 |

**Subpart G—Continued**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| Lead | .0002751 | .0000917 |
| Zinc | .0002751 | .0000917 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.75 Pretreatment standards for existing sources.**

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Primary mills.*

(1) Without scarfing

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| Chromium | 0.0001125 | 0.0000375 |
| Lead | .0001125 | .0000375 |
| Zinc | .0001125 | .0000375 |

(2) With scarfing

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| Chromium | 0.0001752 | 0.0000584 |
| Lead | .0001752 | .0000584 |
| Zinc | .0001752 | .0000584 |

(b) *Section mills.*

(1) Carbon

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| Chromium | 0.0002502 | 0.0000834 |
| Lead | .0002502 | .0000834 |
| Zinc | .0002502 | .0000834 |

(2) Specialty

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001626 | 0.0000542 |
| Lead | .0001626 | .0000542 |
| Zinc | .0001626 | .0000542 |

(c) *Flat mills.*

(1) Hot strip and sheet mills.

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.000324 | 0.0000108 |
| Lead | .000324 | .0000108 |
| Zinc | .000324 | .0000108 |

(2) Carbon plate mills.

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001752 | 0.0000584 |
| Lead | .0001752 | .0000584 |
| Zinc | .0001752 | .0000584 |

(3) Specialty plate mills.

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000750 | 0.0000250 |
| Lead | .0000750 | .0000250 |
| Zinc | .0000750 | .0000250 |

(d) *Pipe and tube mills.*

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002751 | 0.0000917 |
| Lead | .0002751 | .0000917 |
| Zinc | .0002751 | .0000917 |

**§ 420.76 Pretreatment standards for new sources.**

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Primary mills.*

(1) Without scarfing.

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001125 | 0.0000375 |
| Lead | .0001125 | .0000375 |
| Zinc | .0001125 | .0000375 |

(2) With scarfing

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001752 | 0.0000584 |
| Lead | .0001752 | .0000584 |
| Zinc | .0001752 | .0000584 |

(b) *Section mills.*

(1) Carbon

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002502 | 0.0000834 |
| Lead | .0002502 | .0000834 |

**Subpart G—Continued**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Zinc | .0002502 | .0000834 |

(2) Specialty

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001626 | 0.0000542 |
| Lead | .0001626 | .0000542 |
| Zinc | .0001626 | .0000542 |

(c) *Flat mills.*

(1) Hot strip and sheet mills

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.000324 | 0.000108 |
| Lead | .000324 | .000108 |
| Zinc | .000324 | .000108 |

(2) Carbon plate mills

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001752 | 0.0000584 |
| Lead | .0001752 | .0000584 |
| Zinc | .0001752 | .0000584 |

(3) Specialty plate mills

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000750 | 0.0000250 |

**Subpart G—Continued**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| Lead | .0000750 | .0000250 |
| Zinc | .0000750 | .0000250 |

(d) *Pipe and tube mills.*

**Subpart G**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002751 | 0.0000917 |
| Lead | .0002751 | .0000917 |
| Zinc | .0002751 | .0000917 |

**§ 420.77 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Primary mills.*

(1) Without scarfing

**Subpart G**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01503 | 0.00563 |
| O&G | .00373 | |
| pH—Within the range of 6.0 to 9.0. | | |

(2) With scarfing

**Subpart G**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02339 | 0.00876 |
| O&G | .00584 | |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Section mills.*

(1) Carbon

**Subpart G**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.03338 | 0.01250 |
| O&G | .00834 | |
| pH—Within the range of 6.0 to 9.0 | | |

(2) Specialty

**Subpart G**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02171 | 0.00813 |
| O&G | .00542 | |
| pH—Within the range of 6.0 to 9.0. | | |

(c) *Flat mills.*

(1) Hot strip and sheet mills.

**Subpart G**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.04352 | 0.01630 |
| O&G | .01090 | |
| pH—Within the range of 6.0 to 9.0. | | |

(2) Carbon plate mills.

**Subpart G**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02339 | 0.00876 |
| O&G | .00584 | |
| pH—Within the range of 6.0 to 9.0. | | |

(3) Specialty plate mills.

**Subpart G**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01001 | 0.00375 |
| O&G | .00250 | |
| pH—Within the range of 6.0 to 9.0. | | |

(d) *Pipe and tube mills.*

**Subpart G**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.03685 | 0.01360 |
| O&G | .00917 | |
| pH—Within the range of 6.0 to 9.0. | | |

## Subpart H—Scale Removal Subcategory

**§ 420.80 Applicability; description of the scale removal subcategory.**

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from kolene and hydride scale removal operations.

**§ 420.81 Specialized definitions.**

(a) The term "kolene scale removal" means the removal of scale from semi-finished steel products by the action of molten salts baths other than those containing sodium hydride.

(b) The term "hydride scale removal" means the removal of scale from semi-finished steel products by the action of molten salt baths containing sodium hydride.

**§ 420.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Kolene Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1563 | 0.0521 |
| Chromium | .0030 | .0010 |
| Chromium (hexavalent) | .00030 | .00010 |
| Iron (dissolved) | .0063 | .0021 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Hydride Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any 1 day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.375 | 0.125 |
| Cyanide | .00375 | .00125 |
| Chromium | .00750 | .00250 |
| Chromium (hexavalent) | .00090 | .00030 |
| Iron (dissolved) | .0150 | .0050 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

Except as provided in 40 CFR § 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Kolene Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.000390 | 0.000130 |

(b) *Hydride Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cyanide | 0.000312 | 0.000104 |
| Chromium | .000126 | .000042 |

**Subpart H—Continued**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Lead | .000126 | .000042 |

**§ 420.84 New source performance standards.**

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Kolene Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.03471 | 0.0130 |
| Chromium | .000252 | .000084 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Hydride Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.006277 | 0.00310 |
| Cyanide | .000156 | .000052 |
| Chromium | .000063 | .000021 |
| Lead | .000063 | .000021 |
| pH—Within the range of 6.0 to 9.0. | | |

**§ 420.85 Pretreatment standards for existing sources.**

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Kolene Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| Chromium | 0.000390 | 0.000130 |

(b) *Hydride Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| Cyanide | 0.000312 | 0.000104 |
| Chromium | .000126 | .000042 |
| Lead | .000126 | .000042 |

**§ 420.86 Pretreatment standards for new sources.**

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Kolene Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of Product | |
| Chromium | 0.0000252 | 0.0000084 |

(b) *Hydride Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of Product | |
| Cyanide | 0.000156 | 0.000052 |
| Chromium | .000063 | .000021 |
| Lead | .000063 | .000021 |

**§ 420.87 Effluent limitations representing the degree of effluent reduction attainable by the application the best conventional control technology.**

Except as provided in 40 CFR §§ 125.30–.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Kolene Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of Product | |
| TSS | 0.1563 | 0.0521 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Hydride Scale Removal.*

**Subpart H**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of Product | |
| TSS | 0.01655 | 0.00620 |
| pH—Within the range of 6.0 to 9.0. | | |

## Subpart I—Acid Pickling Subcategory

**§ 420.90 Applicability; description of the acid pickling subcategory.**

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from sulfuric acid, hydrochloric acid, or combination acid pickling operations.

**§ 420.91 Specialized definitions.**

(a) The term "sulfuric acid pickling" means those operations in which steel products are immersed in sulfuric acid solutions to chemically remove scale and oxides and those rinsing steps associated with such immersion.

(b) The term "hydrochloric acid pickling" means those operations in which steel products are immersed in hydrochloric acid solutions to chemically remove oxides and scale, and those rinsing operations associated with such immersion.

(c) The term "combination acid pickling" means those operations in which steel products are immersed in solutions of more than one acid to chemically remove oxides and scale, and those rinsing operations associated with such immersion.

(d) The term "fume scrubber" means those pollution control devices used to remove and clean fumes originating in pickling operation.

(e) The term "batch" means those pickling operations which process steel products such as coiled wire, rods, and tubes in discrete batches or bundles.

(f) The term "continuous" means those pickling operations which process steel products other than in discrete batches or bundles.

(g) The term "acid recovery" means those sulfuric acid pickling operations that include processes for recovering the unreacted acid from spent pickling acid solutions

(h) The term "acid regeneration" means those hydrochloric acid pickling operations that include processes for regenerating acid from spent pickling acid solutions.

(i) The term "neutralization" means those acid pickling operations that do not include acid recovery or acid regeneration processes.

(j) The term "spent acid solution" (or spent pickle liquor) means those solutions of steel pickling acids which have been used in the pickling process and are discharged or removed therefrom.

**§ 420.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Sulfuric acid pickling.* (1) Batch neutralization.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.2252 | 0.07506 |
| O&G* | .04503 | .01501 |
| Iron (dissolved) | .00450 | .00150 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(2) Batch; acid recovery.

No discharge of process wastewater pollutants to navigable waters.

(3) Continuous neutralization without spent acid solutions.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1407 | 0.0469 |
| O&G* | .0281 | .00938 |
| Iron (dissolved) | .00281 | .000938 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(4) Continuous neutralization with spent acid solutions.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1563 | 0.0521 |
| O&G* | .0312 | .0104 |
| Iron (dissolved) | .00312 | .00104 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(5) Continuous acid recovery. No discharge of process wastewater pollutants to navigable waters.

(b) *Hydrochloric acid pickling.* (1) Batch neutralization without fume scrubbers.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1440 | 0.0480 |
| O&G* | .02880 | .00960 |
| Iron (dissolved) | .002880 | .000960 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(2) Batch neutralization with fume scrubbers.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1752 | 0.0584 |
| O&G* | .0351 | .0117 |
| Iron (dissolved) | .00351 | .0117 |

pH—Within the range of 6.0 to 9.0.

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(3) Continuous neutralization without fume scrubbers

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1440 | 0.0480 |
| O&G* | .02880 | .00960 |
| Iron (dissolved) | .002880 | .000960 |

pH—Within the range of 6.0 to 9.0.

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(4) Continuous neutralization with fume scrubbers.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1752 | 0.0584 |
| O&G* | .0351 | .0117 |
| Iron (dissolved) | .00351 | .00117 |

pH—Within the range of 6.0 to 9.0.

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(5) Continuous acid regeneration without fume scrubbers.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.2502 | 0.0834 |
| O&G* | .0498 | .0166 |
| Iron (dissolved) | .00498 | .00166 |

pH—Within the range of 6.0 to 9.0.

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(6) Continuous acid regeneration with fume scrubbers.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.2814 | 0.0938 |
| O&G* | .0561 | .0187 |
| Iron (dissolved) | .00561 | .00187 |

pH—Within the range of 6.0 to 9.0.

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(c) *Combination acid pickling.* (1) Batch pipe and tube products.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.2190 | 0.0730 |
| O&G* | .0876 | .0292 |
| Chromium | .00483 | .00146 |
| Iron (dissolved) | .00876 | .00292 |
| Nickel | .00219 | .000730 |
| Fluoride** | .1314 | .0438 |

pH—Within the range of 6.0 to 9.0.

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

**The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

(2) Batch—other products.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0627 | 0.0209 |
| O&G* | .0249 | .00830 |
| Chromium | .00125 | .000417 |
| Iron (dissolved) | .00249 | .000830 |
| Nickel | .000627 | .000209 |
| Fluoride** | .0375 | .0125 |

pH—Within the range of 6.0 to 9.0.

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

**The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

(3) Continuous.

**Subpart I**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.3120 | 0.104 |
| O&G* | .1251 | .0417 |
| Chromium | .00627 | .00209 |
| Iron (dissolved) | .01251 | .00417 |
| Nickel | .003120 | .00104 |
| Fluoride** | .1878 | .0626 |

pH—Within the range of 6.0 to 9.0.

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

**The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

**§ 420.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Sulfuric acid pickling.* (1) Batch neutralization.

**Subpart I**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000876 | 0.0000292 |
| Lead | .0000876 | .0000292 |
| Zinc | .0000876 | .0000292 |

(2) Batch acid recovery.

No discharge of process wastewater pollutants to navigable waters.

(3) Continuous neutralization.

**Subpart I**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000690 | 0.0000230 |
| Lead | .0000690 | .0000230 |
| Zinc | .0000690 | .0000230 |

(4) Continuous acid recovery.

No discharge of process wastewater pollutants to navigable waters.

(b) Hydrochloric acid pickling.

(1) Batch neutralization.

**Subpart I**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001125 | 0.0000375 |
| Lead | .0001125 | .0000375 |
| Zinc | .0001125 | .0000375 |

(2) Continuous neutralization.

**Subpart I**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000687 | 0.0000229 |
| Lead | .0000687 | .0000229 |
| Zinc | .0000687 | .0000229 |

(3) Continuous acid regeneration.

**Subpart I**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000876 | 0.0000292 |
| Lead | .0000876 | .0000292 |
| Zinc | .0000876 | .0000292 |

(c) *Combination acid pickling.*

(1) Batch.

**Subpart I**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001314 | 0.0000438 |
| Copper | .0001314 | .0000438 |
| Nickel | .0001971 | .0000678 |
| Fluoride [1] | .01971 | .00657 |

[1] The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

(2) Continuous.

**Subpart I**

| Pollutant or pollutant property | BAT Effluent limitation: Maximum for any one day | BAT Effluent limitation: Average of daily values for 30 consecutive days. |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of products | |
| Chromium | 0.000432 | 0.000144 |
| Copper | .000432 | .000144 |
| Nickel | .000648 | .000288 |
| Fluoride* | .0648 | .0216 |

*The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

**§ 420.94 New source performance standards.**

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Sulfuric acid pickling.* No discharge of process wastewater pollutants to navigable waters.

(b) *Hydrochloric acid pickling.*

(1) Batch neutralization

**Subpart I**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days. |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of products | |
| TSS | 0.02260 | 0.01130 |
| O&G* | .00750 | .00375 |
| Chromium | .0001125 | .0000375 |
| Lead | .0001125 | .0000375 |
| Zinc | .0001125 | .0000375 |
| ph—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(2) Continuous neutralization

**Subpart I**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days. |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of products | |
| TSS | 0.01376 | 0.00688 |
| O&G* | .00458 | .00229 |
| Chromium | .0000678 | .0000229 |
| Lead | .0000678 | .0000229 |
| Zinc | .0000678 | .0000229 |
| ph—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(3) Continuous acid regeneration

**Subpart I**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days. |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of products | |
| TSS | 0.01752 | 0.00876 |
| O&G* | .00584 | .00292 |
| Chromium | .0000876 | .0000292 |
| Lead | .0000876 | .0000292 |
| Zinc | .0000876 | .0000292 |
| ph—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(c) *Combination acid pickling.*

(1) Batch

**Subpart I**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01126 | 0.00563 |
| O&G* | .00376 | .00188 |
| Chromium | .0000564 | .0000188 |
| Copper | .0000564 | .0000188 |
| Nickel | .0000844 | .0000375 |
| Fluoride** | .00844 | .00281 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

**The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

(2) Continuous

**Subpart I**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02260 | 0.01130 |
| O&G* | .00750 | .00375 |
| Chromium | .0001125 | .0000375 |
| Copper | .0001125 | .0000375 |
| Nickel | .0001690 | .0000751 |
| Fluoride** | .0169 | .00563 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

**The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

**§ 420.95 Pretreatment standards for existing sources.**

Except as provided in 40 FR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Sulfuric acid recovery.*

(1) Batch neutralization

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000876 | 0.0000292 |
| Lead | .0000876 | .0000292 |
| Zinc | .0000876 | .0000292 |

(2) *Batch acid recovery.* No discharge of process wastewater pollutants to publicly owned treatment works.

(3) Continuous neutralization

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000688 | 0.0000230 |
| Lead | .0000688 | .0000230 |
| Zinc | .0000688 | .0000230 |

(4) *Continuous acid recovery.*

No discharge of process wastewater pollutants to publicly owned treatment works.

(b) *Hydrochloric acid pickling.*

(1) Batch neutralization

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001125 | 0.0000375 |
| Lead | .0001125 | .0000375 |
| Zinc | .0001125 | .0000375 |

(2) Continuous neutralization

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000687 | 0.0000229 |
| Lead | .0000687 | .0000229 |
| Zinc | .0000687 | .0000229 |

(3) Continuous acid regeneration

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000876 | 0.0000292 |
| Lead | .0000876 | .0000292 |
| Zinc | .0000876 | .0000292 |

(c) *Combination acid pickling.*

(1) Batch

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001314 | 0.0000436 |
| Copper | .0001314 | .0000438 |
| Nickel | .0001971 | .0000876 |

(2) Continuous

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000432 | 0.0000144 |
| Copper | .0000432 | .0000144 |
| Nickel | .0000648 | .0000288 |

**§ 420.96 Pretreatment standards for new sources.**

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Sulfuric acid pickling.* No discharge of process wastewater pollutants to publicly owned treatment works.

(b) *Hydrocholoric acid pickling.*

(1) Batch neutralization

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| Chromium | 0.0001125 | 0.0000375 |
| Lead | .0001125 | .0000375 |
| Zinc | .0001125 | .0000375 |

(2) Continuous neutralization

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| Chromium | 0.0000687 | 0.0000229 |
| Lead | .0000687 | .0000229 |
| Zinc | .0000687 | .0000229 |

(3) Continuous acid regeneration

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1000 lb) of product | |
| Chromium | 0.0000876 | 0.0000292 |
| Lead | .0000876 | .0000292 |
| Zinc | .0000667 | .0000292 |

(c) *Combination acid pickling.*

(1) Batch

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000563 | 0.0000188 |
| Copper | 0000563 | .0000188 |
| Nickel | 0000844 | .0000375 |

(2) Continuous

**Subpart I**

| Pollutant or pollutant property | Pretreatment standards for new sources | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001125 | 0.0000375 |
| Copper | .0001125 | .0000375 |
| Nickel | .0001690 | .0000751 |

**§ 420.97 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.**

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Sulfuric acid pickling.*

(1) Batch neutralization

**Subpart I**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.2252 | 0.07506 |
| O&G* | .04503 | .01501 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(2) *Batch acid recovery.* No discharge of process wastewater pollutants to navigable waters.

(3) Continuous neutralization without spent acid solutions

**Subpart I**

| Pollutant or pollutant property | BCT Effluent Limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1407 | 0.0469 |
| O&G* | .02814 | .00938 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(4) Continuous neutralization with spent acid solutions

**Subpart I**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1563 | 0.0521 |
| O&G* | 0.0312 | 0.0104 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(5) Continuous acid recovery. No discharge of process wastewater pollutants to navigable waters.

(b) *Hydrochloric acid pickling.*

(1) Batch neutralization without fume scrubbers.

**Subpart I**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1440 | 0.0480 |
| O&G* | .0288 | .00960 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(2) Batch neutralization with fume scrubbers.

**Subpart I**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1752 | 0.0584 |
| O&G* | .0351 | .0117 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(3) Continuous neutralization.

**Subpart I**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.00918 | 0.00344 |
| O&G* | .00229 | |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(4) Continuous acid regeneration.

**Subpart I**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.01169 | 0.00438 |
| O&G* | .00292 | |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(c) *Combination acid pickling.*

(1) Batch pipe and tube products.

**Subpart I**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.2190 | 0.0730 |
| O&G* | .0876 | .0292 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(2) Batch—other products.

**Subpart I**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0627 | 0.0209 |
| O&G* | .0249 | .0083 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(3) Continuous.

**Subpart I**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.3120 | 0.1040 |
| O&G* | .1251 | .0417 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

## Subpart J—Cold Forming Subcategory

### § 420.100 Applicability; description of the cold forming subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works from cold rolling and cold working pipe and tube operations in which unheated steel is passed through rolls or otherwise processed to reduce its thickness, to produce a smooth surface, or to develop controlled mechanical properties in the steel.

### § 420.101 Specialized definitions.

(a) The term "recirculation mill" means those cold rolling operations which include recirculation of rolling solutions at all mill stands.

(b) The term "combination mill" means those cold rolling operations which include recirculation of rolling solutions at one or more mill stands, and once-through use of rolling solutions at the remaining stand or stands.

(c) The term "direct application mill" means those cold rolling operations which include once-through use of rolling solutions at all mill stands.

(d) The term "cold worked pipe and tube mill" means those cold forming operations that process unheated pipe and tube products using either water or oil solutions for cooling and lubrication.

### § 420.101 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Cold rolling mills.* (1) Recirculation mills.

**Subpart J**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.00783 | 0.00261 |
| O&G | .00312 | .00104 |

**Subpart J—Continued**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| Iron (dissolved)* | .000312 | .000104 |

pH—Within the range of 6.0 to 9.0.

*The limitations for dissolved iron apply only when cold rolling wastewaters are treated with acid pickling rinse wastewaters.

(2) Combination mills.

**Subpart J**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1251 | 0.0417 |
| O&G | .0501 | .0167 |
| Iron (dissolved)* | .00501 | .00167 |

pH—Within the range of 6.0 to 9.0.

*The limitations for dissolved iron apply only when cold rolling wastewaters are treated with acid pickling rinse wastewaters.

(3) Direct application mills.

**Subpart J**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.3120 | 0.1040 |
| O&G | .1251 | .0417 |
| Iron (dissolved)* | .01251 | .0041 |

pH—Within the range of 6.0 to 9.0.

*The limitations for dissolved iron apply only when cold rolling wastewaters are treated with acid pickling rinse wastewaters.

(b) *Cold worked pipe and tube mills.* (1) Using water. No discharge of process wastewater pollutants to navigable waters.

(2) Using oil solutions. No dischage of process wastewater pollutants to navigable waters.

### § 420.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Cold rolling.* (1) Recirculation mills.

**Subpart J**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0000312 | 0.0000104 |
| Lead | .0000312 | .0000104 |
| Zinc | .0000312 | .0000104 |
| 1,1,1-trichloroethane | .0000312 | .0000104 |
| 2-Nitrophenol | .00000783 | .00000261 |
| Anthracene | .00000312 | .00000104 |
| Tetrachloroethylene | .00001563 | .00000521 |

(2) Combination mills.

**Subpart J**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.000312 | 0.000104 |
| Lead | .000312 | .000104 |
| Zinc | .000312 | .000104 |
| 1,1,1-trichloroethane | .000312 | .000104 |
| 2-Nitrophenol | .0000783 | .0000261 |
| Anthracene | .0000312 | .0000104 |
| Tetrachloroethylene | .0001563 | .0000521 |

(3) Direct application mills.

**Subpart J**

| Pollutant or pollutant property | BAT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.000501 | 0.000167 |
| Lead | .000501 | .000167 |
| Zinc | .000501 | .000167 |

(b) *Cold worked pipe and tube mills.* (1) Using water. No discharge of process wastewater pollutants to navigable waters.

(2) Using oil solutions. No discharge of process wastewater pollutants to navigable waters.

### § 420.104 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) Cold rolling mills.

**Subpart J**

| Pollutant or pollutant property | New Source performance standards: Maximum for any one day | New Source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.001671 | 0.000626 |
| Oil and grease | .000417 | |
| Chromium | .00001251 | .00000417 |
| Lead | .00001251 | .00000417 |
| Zinc | .00001251 | .00000417 |
| 1,1,1-trichloroethane | .00001251 | .00000417 |
| 2-Nitrophenol | .00000312 | .00000104 |
| Anthracene | .000001251 | .000000417 |
| Tetrachloroethylene | .00000627 | .00000209 |

pH—Within the range of 6.0 to 9.0.

(b) *Cold worked pipe and tube mills.*

(1) Using water. No discharge of process wastewater pollutants to navigable waters.

(2) Using oil solutions. No discharge of process wastewater pollutants to navigable waters.

**§ 420.105 Pretreatment standards for existing sources.**

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Cold rolling.*

(1) Recirculation mills.

**Subpart J**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| O&G | 0.00104 | |
| Chromium | .0000312 | 0.0000104 |
| Lead | .0000312 | .0000104 |
| Zinc | .0000312 | .0000104 |
| 1,1,1trichlorcethane | .0000312 | .0000104 |
| 2-Nitrophenol | .00000783 | .00000261 |
| Anthracene | .00000312 | .00000104 |
| Tetrachloroethylene | .00001563 | .00000521 |

(2) Combination mills.

**Subpart J**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| O&G | 0.0104 | |
| Chromium | .000312 | 0.000104 |
| Lead | .000312 | .000104 |
| Zinc | .000312 | .000104 |

**Subpart J—Continued**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| 1,1,1-trichloroethane | .000312 | .000104 |
| 2-Nitrophenol | .0000783 | .0000261 |
| Anthracene | .0000312 | .0000104 |
| Tetrachloroethylene | .0001563 | .0000521 |

(3) Direct application mills.

**Subpart J**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| O&G | 0.0167 | |
| Chromium | .000501 | 0.000167 |
| Lead | .000501 | .000167 |
| Zinc | .000501 | .000167 |

(b) *Cold worked pipe and tube mills.*—(1) *Using water.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Using oil solutions.* No discharge of process wastewater pollutants to publicly owned treatment works.

**§ 420.106 Pretreatment standards for new sources.**

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) Cold rolling mills.

**Subpart J**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| O&G | 0.000417 | |
| Chromium | .00001251 | 0.00000417 |
| Lead | .00001251 | .00000417 |
| Zinc | .00001251 | .00000417 |
| 1,1,1-trichloroethane | .00001251 | .00000417 |
| 2-Nitrophenol | .00000312 | .00000104 |
| Anthracene | .000001251 | .00000417 |
| Tetrachloroethylene | .00000627 | .00000209 |

pH—Within the range of 6.0 to 9.0.

(b) *Cold worked pipe and tube mills.*—(1) *Using water.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Using oil solutions.* No discharge of process wastewater pollutants to publicly owned treatment works.

**§ 420.107 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.**

Except as provided in 40 CFR §§ 125.30–.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Cold rolling.*

(1) Recirculation mills.

**Subpart J**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.00783 | 0.00261 |
| O&G | .00312 | .00104 |

pH—Within the range of 6.0 to 9.0.

(2) Combination mills.

**Subpart J**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0417 | 0.0156 |
| O&G | 0.0104 | |

pH—Within the range of 6.0 to 9.0.

(3) Direct application mills.

**Subpart J**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0668 | 0.0250 |
| O&G | 0.0167 | |

pH—Within the range of 6.0 to 9.0.

(b) Cold worked pipe and tube mills.—(1) *Using water. No discharge of process wastewater pollutants to navigable waters.*

(2) *Using oil solutions. No discharge of process wastewater pollutants to navigable waters.*

## Subpart K—Alkaline Cleaning Subcategory

### § 420.110 Applicability; description of the alkaline cleaning subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from operations in which steel and steel products are immersed in alkaline cleaning baths to remove mineral and animal fats or oils from the steel, and those rinsing operations which follow such immersion.

### § 420.111 Specialized definitions.

(a) The term "batch" means those alkaline cleaning operations which process steel products such as coiled wire, rods, and tubes in discrete batches or bundles.

(b) The term "continuous" means those alkaline cleaning operations which process steel products other than in discrete batches or bundles.

### § 420.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

**Subpart K**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0156 | 0.0052 |
| pH—Within the range of 6.0 to 9.0. | | |

### § 420.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable. [Reserved]

### § 420.114 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

**Subpart K**

| Pollutant or pollutant property | New source performance standards | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.00828 | 0.00310 |
| O&G | .00210 | |
| pH—Within the range of 6.0 to 9.0. | | |

### § 420.115 Pretreatment standards for existing sources.

Any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

### § 420.116 Pretreatment standards for new sources.

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

### § 420.117 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

**Subpart K**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0156 | 0.0052 |
| pH—Within the range of 6.0 to 9.0. | | |

## Subpart L—Hot Coating Subcategory

### § 420.120 Applicability; description of the hot coating subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from the operations in which steel is coated with zinc, terne metal, or other metals by the hot dip process, and those rinsing operations associated with that process.

### § 420.121 Specialized definitions.

(a) The term "galvanizing" means coating steel products with zinc by the hot dip process including the immersion of the steel product in a molten bath of zinc metal, and the related operations preceding and subsequent to the immersion phase.

(b) The term "terne coating" means coating steel products with terne metal by the hot dip process including the immersion of the steel products in a molten bath of lead and tin metals, and the related operations preceding and subsequent to the immersion phase.

(c) The term "other coatings" means coating steel products with metals other than zinc or terne metal by the hot dip process including the immersion of the steel products in a molten bath of metal, and the related operations preceding and subsequent to the immersion phase.

(d) The term "fume scrubber" means wet air pollution control devices used to remove and clean fumes originating in hot coating operations.

(e) The term "strip, sheet and miscellaneous products" means steel products other than wire products and fasteners.

(f) The term "wire products and fasteners" means steel wire, products manufactured from steel wire, and steel fasteners manufactured of steel wire or other steel shapes.

### § 420.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Galvanizing.* (1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BPT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days. |
| | Kg/kkg (lb/1,000 lb) of products | |
| TSS | 0.375 | 0.125 |
| O&G | .1125 | .0375 |
| Chromium | .0225 | .0075 |
| Chromium (Hexavalent) | .00015 | .00005 |
| Zinc | .0375 | .0125 |
| pH—Within the range of 6.0 to 9.0. | | |

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.750 | 0.250 |
| O&G | .225 | .075 |
| Chromium | .0450 | .0150 |
| Chromium (Hexavalent) | .00030 | .00010 |
| Zinc | .0750 | .0250 |
| pH—Within the range of 6.0 to 9.0. | | |

(3) Wire products and fasteners without fume scrubbers

**Subpart L**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 1.500 | 0.500 |
| O&G | .450 | .150 |
| Chromium | .030 | .010 |
| Chromium (Hexavalent) | .00060 | .00020 |
| Zinc | .150 | .050 |
| pH—Within the range of 6.0 to 9.0. | | |

(4) Wire products and fasteners with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 2.4375 | 0.8125 |
| O&G | .7313 | .2438 |
| Chromium | .04875 | .01625 |
| Chromium (Hexavalent) | .000975 | .000325 |
| Zinc | .2438 | .0813 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Terne coating.* (1) Without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.375 | 0.125 |
| O&G | .1125 | .0375 |
| Lead | .00375 | .00125 |
| Tin | .0375 | .0125 |
| pH—Within the range of 6.0 to 9.0. | | |

(2) With fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.750 | 0.250 |
| O&G | .225 | .0750 |
| Lead | .00750 | .00250 |
| Tin | .0750 | .0250 |
| pH—Within the range of 6.0 to 9.0. | | |

(c) *Other coatings.* (1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.375 | 0.125 |
| O&G | .1125 | .0375 |
| Cadmium* | .00375 | .00125 |
| Chromium | .00150 | .00050 |
| Lead | .00375 | .00125 |
| Zinc | .0225 | .00750 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for cadmium apply only to cadmium coating operations.

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.750 | 0.250 |
| O&G | .225 | .075 |
| Cadmium* | .00750 | .00250 |
| Chromium | .00300 | .00100 |
| Lead | .00750 | .00250 |
| Zinc | .0450 | .0150 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for cadmium apply only to cadmium coating operations.

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 1.50 | 0.500 |
| O&G | .450 | .150 |
| Cadmium* | .0150 | .0050 |

**Subpart L**—Continued

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| Chromium | .0150 | .0050 |
| Lead | .0150 | .0050 |
| Zinc | .090 | .030 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for cadmium apply only to cadmium coating operations.

(4) Wire products and fasteners with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BPT effluent limitations: Maximum for any one day | BPT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 2.438 | 0.813 |
| O&G | .731 | .244 |
| Cadmium* | .02438 | .00813 |
| Chromium | .02438 | .00813 |
| Lead | .02438 | .00813 |
| Zinc | .1463 | .0488 |
| pH—Withing the range of 6.0 to 9.0. | | |

*The limitations for cadmium apply only to cadmium coating operations.

**§ 420.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

Except as provided in 40 CFR §§ 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Galvanizing.*

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001878 | 0.0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002504 | 0.0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0007512 | 0.0002504 |
| Lead | .0007512 | .0002504 |
| Zinc | .0007512 | .0002504 |

(4) Wire products and fasteners with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.000939 | 0.000313 |
| Lead | .000939 | .000313 |
| Zinc | .000939 | .000313 |

(b) *Terne coating.*

(1) Without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001878 | 0.0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |

(2) With fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002504 | 0.0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |

(c) *Other coatings.*

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.0001878 | 0.0000626 |
| Chromium | .0001878 | .0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |

*The limitations for cadmium apply only to cadmium coating operations.

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.0002504 | 0.0000835 |
| Chromium | .0002504 | .0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |

*The limitations for cadmium apply only to cadmium coating operations.

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.0007512 | 0.0002504 |
| Chromium | .0007512 | .0002504 |
| Lead | .0007512 | .0002504 |
| Zinc | .0007512 | .0002504 |

*The limitations for cadmium apply only to cadmium coating operations.

(4) Wire products and fasteners with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BAT effluent limitations: Maximum for any one day | BAT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.000939 | 0.000313 |
| Chromium | .000939 | .000313 |
| Lead | .000939 | .000313 |
| Zinc | .000939 | .000313 |

*The limitations for cadmium apply only to cadmium coating operations.

**§ 420.124 New source performance standards.**

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Galvanizing.*

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02504 | 0.00938 |
| O&G | .00626 | |
| Chromium | .0001878 | .0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |
| pH—Within the range of 6.0 to 9.0. | | |

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.03339 | 0.0125 |
| O&G | .00835 | |
| Chromium | .0002504 | .0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |
| pH—Within the range of 6.0 to 9.0. | | |

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (1b/1,000 1b) of product | |
| TSS | 0.1002 | 0.03752 |
| O&G | .02504 | |
| Chromium | .0007512 | .0002504 |
| Lead | .0007512 | .0002504 |
| Zinc | .0007512 | .0002504 |
| pH—Within the range of 6.0 to 9.0. | | |

(4) Wire products and fasteners with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (1b/1,000 1b) of product | |
| TSS | 0.1252 | 0.0469 |
| O&G | .0313 | |
| Chromium | .000939 | .000313 |
| Lead | .000939 | .000313 |
| Zinc | .000939 | .000313 |
| pH—Within the range of 6.0 to 9.0. | | |

(b) Terne coating.

(1) Without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (1b/1,000 1b) of product | |
| TSS | 0.02504 | 0.00938 |
| O&G | .00626 | |
| Chromium | .0001878 | .0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |
| pH—Within the range of 6.0 to 9.0. | | |

(2) With fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (1b/1,000 1b) of product | |
| TSS | 0.03339 | 0.0125 |
| O&G | .00835 | |
| Chromium | .0002504 | .0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |
| pH—Within the range of 6.0 to 9.0. | | |

(c) Other coatings.

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02504 | 0.00938 |
| O&G | .00626 | |
| Cadmium* | .0001878 | .0000626 |
| Chromium | .0001878 | .0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for cadmium apply only to cadmium coating operations.

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.03339 | 0.0125 |
| O&G | .00835 | |
| Cadmium* | .0002504 | .0000835 |
| Chromium | .0002504 | .0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for cadmium apply only to cadmium coating operations.

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1002 | 0.03752 |
| O&G | .02504 | |
| Cadmium* | .0007512 | .0002504 |
| Chromium | .0007512 | .0002504 |
| Lead | .0007512 | .0002504 |
| Zinc | .0007512 | .0002504 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for cadmium apply only to cadmium coating operations.

(4) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | New source performance standards: Maximum for any one day | New source performance standards: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1252 | 0.0469 |
| O&G | .0313 | |
| Cadmium* | .000939 | .000313 |
| Chromium | .000939 | .000313 |
| Lead | .000939 | .000313 |
| Zinc | .000939 | .000313 |
| pH—Within the range of 6.0 to 9.0. | | |

*The limitations for cadmium apply only to cadmium coating operations.

**§ 420.125 Pretreatment standards for existing sources.**

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Galvanizing.* (1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001878 | 0.0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002504 | 0.0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0007512 | 0.0002504 |
| Lead | .0007512 | .0002504 |
| Zinc | .0007512 | .0002504 |

(4) Wire products and fasteners with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.000939 | 0.000313 |
| Lead | .000939 | .000313 |
| Zinc | .000939 | .000313 |

(b) *Terne coating.* (1) Without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001878 | 0.0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |

(2) With fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002504 | 0.0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |

(c) *Other coasting.* (1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.0001878 | 0.0000626 |
| Chromium | .0001878 | .0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |

*The limitations for cadmium apply only to cadmium coating operations.

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.0002504 | 0.0000835 |
| Chromium | .0002504 | .0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |

*The limitations for cadmium apply only to cadmium coating operations.

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.0007512 | 0.0002504 |
| Chromium | .0007512 | .0002504 |
| Lead | .0007512 | .0002504 |
| Zinc | .0007512 | .0002504 |

*The limitations for cadmium apply only to cadmium coating operations.

(4) Wire products and fasteners with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for existing sources: Maximum for any one day | Pretreatment standards for existing sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.000939 | 0.000313 |
| Chromium | .000939 | .000313 |
| Lead | .000939 | .000313 |
| Zinc | .000939 | .000313 |

*The limitations for cadmium apply only to cadmium coating operations.

**§ 420.126 Pretreatment standards for new sources.**

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Galvanizing.*

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001878 | 0.0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002504 | 0.0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0007512 | 0.0002504 |
| Lead | .0007512 | .0002504 |
| Zinc | .0007512 | .0002504 |

(4) Wire products and fasteners with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.000939 | 0.000313 |
| Lead | .000939 | .000313 |
| Zinc | .000939 | .000313 |

(b) *Terne coating.* (1) Without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0001878 | 0.0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |

(2) With fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Chromium | 0.0002504 | 0.0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |

(c) *Other coatings.* (1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.0001878 | 0.0000626 |
| Chromium | .0001878 | .0000626 |
| Lead | .0001878 | .0000626 |
| Zinc | .0001878 | .0000626 |

[1] The limitations for cadmium apply only to cadmium coating operations.

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.0002504 | 0.0000835 |
| Chromium | .0002504 | .0000835 |
| Lead | .0002504 | .0000835 |
| Zinc | .0002504 | .0000835 |

[1] The limitations for cadmium apply only to cadmium coating operations.

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.0007512 | 0.0002504 |
| Chromium | .0007512 | .0002504 |
| Lead | .0007512 | .0002504 |
| Zinc | .0007512 | .0002504 |

[1] The limitations for cadmium apply only to cadmium coating operations.

(4) Wire products and fasteners with fume scrubbers

**Subpart L**

| Pollutant or pollutant property | Pretreatment standards for new sources: Maximum for any one day | Pretreatment standards for new sources: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| Cadmium* | 0.000939 | 0.000313 |
| Chromium | .000939 | .000313 |
| Lead | .000939 | .000313 |
| Zinc | .000939 | .000313 |

[1] The limitations for cadmium apply only to cadmium coating operations.

**§ 420.127 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.**

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Galvanizing.* (1) Strip, sheet, and miscellaneous products without fume scrubbers

**Subpart L**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.02504 | 0.00938 |
| O&G | .00626 | |
| pH—Within the range of 6.0 to 9.0. | | |

(2) Strip, sheet, and miscellaneous products with fume scrubbers

**Subpart L**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.03339 | 0.01251 |
| O&G | .00835 | |
| pH—Within the range of 6.0 to 9.0. | | |

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1002 | 0.03752 |
| O&G | .0250 | |
| pH—Within the range of 6.0 to 9.0. | | |

(4) Wire products and fasteners without fume scrubbers.

**Subpart K**

| Pollutant or pollutant property | BCT effluent limitations: Maximum for any one day | BCT effluent limitations: Average of daily values for 30 consecutive days |
|---|---|---|
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.1252 | 0.0469 |
| O&G | .0313 | |
| pH—Within the range of 6.0 to 9.0. | | |

(b) *Terne coating.*

(1) Without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.3750 | 0.1250 |
| O&G | .1125 | .0375 |
| pH—Within the range of 6.0 to 9.0. | | |

(2) With fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.03339 | 0.01251 |
| O&G | .00835 | |
| pH—Within the range of 6.0 to 9.0. | | |

(c) *Other coatings.*

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1,000 lb) of product | |
| TSS | 0.0376 | 0.0188 |
| O&G | .00626 | |
| pH—Within the range of 6.0 to 9.0. | | |

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.03339 | 0.01251 |
| O&G | .00835 | |
| pH—Within the range of 6.0 to 9.0. | | |

(3) Wire products and fasteners without fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 0.1504 | 0.0752 |
| O&G | 0.02504 | |
| pH—Within the range of 6.0 to 9.0. | | |

(4) Wire products and fasteners with fume scrubbers.

**Subpart L**

| Pollutant or pollutant property | BCT effluent limitations | |
|---|---|---|
| | Maximum for any one day | Average of daily values for 30 consecutive days |
| | Kg/kkg (lb/1000 lb) of product | |
| TSS | 2.438 | 0.8125 |
| O&G | 0.731 | 0.2438 |
| pH—Within the range of 6.0 to 9.0. | | |

[FR Doc. 81-95 Filed 1-6-81; 8:45 am]

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January 7, 1981

Part III

# Environmental Protection Agency

**Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Particulate Regulation for Heavy-Duty Diesel Engines**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 86

[Docket No. A-80-18; AMS-FRL-1628-7]

### Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Particulate Regulation for Heavy-Duty Diesel Engines

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The proposed regulation would establish a standard for the emission of particulate matter from heavy-duty diesel engines.[1] Beginning with the 1986 model year, this standard would be 0.25 gram per brake horsepower-hour (g/BHP-hr) (0.093 gram per megajoule (g/MJ)). Although this standard represents about a two-thirds reduction in particulate emissions from uncontrolled levels, it is judged feasible without increasing emissions of nitrogen oxides (NOx). The proposed regulation would also amend the emission testing regulations at 40 CFR Part 86 to establish procedures for the measurement of particulate emissions from new heavy-duty diesel engines to determine compliance with the particulate emission standard. In addition, this regulation would incorporate compliance testing of production heavy-duty engines for particulate emissions under the Selective Enforcement Auditing (SEA) program beginning with the 1986 model year.

In a related rulemaking action, EPA will soon propose a revised NOx emission standard for these same heavy-duty diesels, along with revised NOx emission standards for light-duty trucks and heavy-duty gasoline engines for 1986 and later model years. In order to ensure that these two proposals are mutually compatible, EPA will restrict the degree of NOx emission reduction required from heavy-duty diesels to that which is attainable with the proposed particulate standard in effect. This relationship between the two rulemaking actions affecting heavy-duty diesels is outlined in greater detail later in the section entitled *Technology*.

**DATES:** *Public Hearing:* There will be a public hearing on the provisions of this proposed regulation approximately 45 days after publication of this document. The exact time and place will be announced at a later date in a subsequent **Federal Register** notice.

EPA will consider all written comments received on or before the 30th day following the public hearing. EPA requests that, to the extent possible, comments be submitted prior to the hearing.

**ADDRESSES:** Interested persons may submit written comments to the: Central Docket Section A-130, West Tower Lobby Gallery 1, U.S. Environmental Protection Agency, Attn: Docket No. A-80-18, 401 M Street SW, Washington, D.C. 20460. Also, EPA requests that commenters forward five copies to U.S. Environmental Protection Agency, Attn: Director, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

Copies of materials relevant to this rulemaking action are contained in Public Docket No. A-80-18 at the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The Central Docket Section is open to visitors Monday through Friday from 8:00 a.m. to 4:00 p.m. (As provided in 40 CFR Part 2 the Agency may charge a reasonable fee for copying services.)

**FOR FURTHER INFORMATION CONTACT:** Richard A. Rykowski, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668-4339 (FTS) 374-8339.

**SUPPLEMENTARY INFORMATION:**

*Comments and the Public Docket:* During final rulemaking EPA will consider all written comments received on or before the 30th day following the public hearing. EPA requests that, to the extent possible, comments be submitted prior to the hearing. EPA will keep the record of the public hearing open for submission of rebuttal and other information following the close of the hearing until the above mentioned date.

It is EPA's intention to assure all interested parties an opportunity to study all information which may become the basis for EPA's final action in this proceeding. Accordingly, the Agency will not consider in this rulemaking any material which cannot be made publicly available. Parties who wish to submit information in response to this Notice of Proposed Rulemaking are cautioned that EPA will not consider, but will return to the commenter, any comments which are claimed, in whole or in part, to be confidential.

**Authority:** Statutory authority and mandate for this action are provided under Sections 202, 206 and 301(a) of the Clean Air Act (42 U.S.C. 7521, 7525 and 7601). Section 202(a)(3)(A)(iii) of the Act provides that, "The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of particulate matter from classes or categories of vehicles manufactured during and after model year 1981 (or during any earlier model year, if practicable)." Section 206(a)(1) provides, in part, that "the Administrator shall test, or require to be tested in such manner as he deems appropriate, any new motor vehicle . . . to determine whether such vehicle . . . conforms with the regulations prescribed under Section 202 of this Act." Section 301(a) provides, in part, that "the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

*Background:* Despite significant gains made in the control of total suspended particulate (TSP) emissions from stationary sources, there are still many air quality regions which are not able to meet the primary National Ambient Air Quality Standard (NAAQS) for TSP of 75 micrograms per cubic meter. As diesel engines continue over time to power an even greater portion of the nation's heavy-duty vehicles (on-the-road trucks and buses whose gross vehicle weight rating exceeds 8,500 pounds), their contribution to ambient levels of total suspended particulate (TSP) will increase over levels that are already significant. Current heavy-duty diesels emit more than twice the particulate per mile emitted by heavy-duty gasoline engines operated on leaded gasoline. Beginning with the 1984 model year, heavy-duty gasoline engines will for the most part be equipped with catalysts in order to comply with stringent standards for hydrocarbons and carbon monoxide. These engines will then be operating on cleaner burning unleaded gasoline and their particulate emissions will decrease by 95-98 percent. Thus, without regulation, heavy-duty diesels will emit 40-100 times the particulate emitted by these 1984 and later model year gasoline engines. Also, due to the extremely low levels of particulate emissions expected from future heavy-duty gasoline engines, EPA does not plan to propose a particulate emission standard for these engines. Table 1 lists particulate emission levels from some heavy-duty diesels currently being used.

If current trends continue, EPA expects the use of diesel engines in heavy-duty vehicles to increase dramatically over the next 15 years. While diesel engines currently power about one-third of all new heavy-duty vehicles sold in the U.S., EPA expects this percentage to increase to 57-69 percent by 1995. This move toward more diesels will increase nationwide particulate emissions from heavy-duty diesels to an estimated 218,000-266,000

[1] A heavy-duty diesel engine is any diesel engine used to power a heavy-duty vehicle, which is an on-the-road vehicle whose gross vehicle weight rating exceeds 8500 pounds or whose frontal area exceeds 45 square feet.

metric tons per year by 1995. Urban areas would be the most heavily affected by these emissions. Ambient particulate levels from heavy-duty diesels alone would reach 2–7 micrograms per cubic meter (annual geometric mean) in cities such as Chicago, Los Angeles, New York, and Dallas. Somewhat lower levels of 2–5 micrograms per cubic meter (annual geometric mean) would occur in smaller cities such as St. Louis, Denver, and Phoenix. These levels would occur over large-scale areas within these cities. Additional particulate levels of 5–6 micrograms per cubic meter (annual geometric mean) would be expected in localized areas within 90 meters of very busy roadways.

Table 1

| Engine* | Particulate emissions (g/BHP-hr) | Number of tests |
|---|---|---|
| 1978 Caterpillar 3208 | 0.79 | 7 |
| 1979 Caterpillar 3406 (Family 10) | .37 | 2 |
| 1979 Caterpillar 3406 (Family 16) | .52 | 2 |
| 1976 Cummins NTC-350 | .60 | 4 |
| 1979 Cummins NTC-350 "Big Cam" | .40 | 2 |
| 1979 Cummins NTCC-350 | .39 | 2 |
| 1979 Cummins NTC-290 | .58 | 2 |
| 1979 Cummins VTB-903* | | |
| No. 1 Fuel | .31 | 2 |
| No. 2 Fuel | .37 | 2 |
| 1978 DDA 6V-92T | .54 | 2 |
| 1978 DDA 6V-71N* | | |
| No. 1 Fuel | .69 | 2 |
| No. 2 Fuel | .79 | 2 |
| 1979 DDA 8V-71TA | .38 | 2 |
| 1979 DDA 6V-92TA*6g | | |
| No. 1 Fuel | .48 | 2 |
| No. 2 Fuel | .55 | 2 |
| 1979 DDA 6V-92TA 10g | .54 | 2 |
| 1979 IHC DTI-466B | .36 | 2 |
| 1979 IHC DT-466 | .53 | 2 |
| 1979 Mack ETAZ(B)673A | .58 | 2 |
| 1980 Mack ETSX-676 | .63 | 2 |

*Engines operated on No. 2 fuel except where noted.

A description of the standard being proposed follows together with a description of the technological, environmental and economic impacts of this regulation. Following these topics are discussions of 1) the alternatives examined by EPA, 2) the major areas of the current Federal Test Procedure that would be changed by the proposed particulate test procedures, 3) the alternative particulate measurement techniques considered for the Federal Test Procedure, and 4) the major differences between the proposed test procedure and that contained in EPA's Draft Recommended Practice of April 1979.

*Proposed Standard:* The proposed particulate standard for heavy-duty diesel engines is 0.25 gram per brake horsepower-hour (g/BHP/hr) (0.093 gram per megajoule (g/MJ)) beginning with the 1986 model year. Heavy-duty diesel engines must also continue to meet the appropriate gaseous emission standards for hydrocarbons (HC), carbon monoxide (CO), and oxides of nitrogen ($NO^x$) and smoke standards.

The proposal does not affect the current certification or selective enforcement audit (SEA) processes. It does, however, modify test procedures to provide for particulate measurement. As manufacturers of heavy-duty diesels must currently follow these procedures to demonstrate compliance with gaseous emission and smoke standards, the same will hold true for this particulate standard. The use of a full useful-life deterioration factor, the use of a 10 percent acceptable quality level for SEA and the certification engine selection criteria will all apply to this particulate standard as they will for the HC, CO, $NO_x$, and smoke standards. However, because the proposed test procedure will provide both particulate and gaseous emission values simultaneously, EPA does not expect this proposed particulate standard to increase the number of engines requiring testing for either certification or SEA.

*Technology:* The Clean Air Act as amended in August 1977 requires heavy-duty diesel particulate emission control based upon control technology which the Administrator determines will be available for the model year to which such standards apply. Due consideration must also be given to cost, noise, energy, and safety. The 0.25 g/BHP-hr (0.093 g/MJ) standard being proposed today fulfills these requirements.

EPA has, in the course of developing this proposal, tested heavy-duty diesel engines from each of the 5 major manufacturers in order to determine their particulate emission levels; the transient test procedure as described in the "Draft Recommended Practice for Measurement of Gaseous and Particulate Emissions from Heavy-Duty Diesel Engines Under Transient Conditions," April 1979, was used. Together, the engines produced by these five manufacturers account for approximately 97 percent of the heavy-duty diesel engines sold in this country. The particular engines tested by EPA represent the complete range of engine sizes and applications found in today's fleet and account for roughly 70 percent of U.S. sales. To date, this test program is approximately 80 percent complete. EPA does not believe that delaying this proposal to allow for the completion of this testing is necessary since 1) testing has already been completed on 3 of the 5 major manufacturers' engines, 2) given the representativeness of the tested engines of the other 2 manufacturers and the methodology used to determine the technologically feasible engine-out particulate level (discussed below), it is unlikely that the level of the proposed standard would be significantly affected by the remaining few engines, and 3) the test program will be completed before promulgation of the final standard. If changes to the standard are warranted based on this new data, the comment period will be reopened.

EPA based the level of this proposed standard on:

1. An engine-out particulate emission level of 0.41 g/BHP-hr (0.153 g/MJ);
2. A 60 percent reduction in engine-out particulate emissions from the application of trap-oxidizers;
3. Over the full useful life, an increase in particulate emissions of up to 20 percent due to engine and trap-oxidizer deterioration; and
4. A 24 percent allowance based on 12 percent variability in the particulate emissions of production engines and a 10 percent acceptable quality limit for a Selective Enforcement Audit. These four points are discussed below.

*1. Engine-Out Emission Level*

The 0.41 g/BHP-hr engine-out emission level represents the level of particulate emissions which EPA has determined to be technologically feasible by 1986 without the use of aftertreatment devices (i.e., trap-oxidizers) and without taking into consideration in-use deterioration or production variability. This level represents the average of the set of engines made up of each manufacturer's lowest particulate emitting model tested by EPA on No. 2 diesel fuel (see Table 1). This approach was chosen from among several alternatives because it best satisfies the Clean Air Act requirements that the standard "reflect the greatest degree of emission reduction achievable . . . giving appropriate consideration to the cost . . . and to noise, energy, and safety factors . . .."

EPA considered three other approaches in determining the technologically achievable level of engine-out particulate emissions. They were: (1) the worst baseline engine (highest particulate emission level), (2) the lowest particulate emission level among the tested engines, and (3) the highest single emission level among each manufacturer's best engines.

The first option would set the feasible level of engine-out particulate emissions at 0.79 g/BHP-hr (0.29 g/MJ) (See Table 1). Using the engine-out particulate emissions of the "worst" baseline engine or vehicle as the starting point for setting the particulate standard may be an appropriate approach when vehicle parameters, such as engine size or

vehicle weight, are a significant factor in the resulting level of emissions. This approach was followed to some extent in setting the particulate emission standards for light-duty vehicles and light-duty trucks (45 FR 14496, March 5, 1980). Particulate emissions from light-duty vehicles and trucks are directly affected by such parameters as vehicle weight and engine size. EPA found that the differences in particulate emissions of baseline light-duty vehicles were not so much the result of different design features leading to lower particulate levels that could be readily incorporated into other vehicles, but rather the fact that generally heavier vehicles tend to emit greater levels of particulate emissions. In order to avoid setting standards (based on the level achievable by the "best" or smallest vehicles) that would have prevented all light-duty diesels from meeting the standards except subcompacts and small pick-ups with small engines, the Agency based the standards on the lowest particulate level achievable by the "worst" (or largest) diesel-powered baseline vehicle.

However, using the engine-out particulate emissions of the "worst" heavy-duty engine as the starting point for setting the heavy-duty particulate standard would be inappropriate because EPA could find no significant correlation between emissions and such parameters as engine size or type. In fact, EPA found a baseline engine with much lower emissions that was comparable in terms of horsepower and in-use application to the baseline engine which had the highest particulate emissions. The results of EPA's investigation suggest that at least to some extent some engine design features leading to lower particulate emissions (from the worst baseline engine) are available.

Given these findings, EPA could not determine that 0.79 g/BHP-hr represented the "greatest reduction achievable . . ." and Option 1 had to be rejected. To do otherwise would have ignored the reduction potential already demonstrated by every other engine tested to date.

Option 2 would require all engines to reach an engine-out particulate level demonstrated by the best of the baseline engines tested. This level is 0.31 g/BHP-hr (0.12 g/MJ); refer to Table 1. Implicit in the choice of this option would be the judgment that (1) there are no engine design features that have an effect on particulate emissions which cannot be readily incorporated on all other heavy-duty diesels, regardless of their size, application (truck or bus), or manufacturer, and (2) the features would produce exactly the same low particulate emission level on all engines. EPA has examined the relationship between particulate emissions and engine size or application and has found no significant correlation. Differences were found in the emissions of engines produced by various manufacturers, but no evidence was found to indicate that the designs used to obtain low emissions on some engines were not available to all manufacturers. However, EPA could not find evidence that these design features would have exactly the same effect on every manufacturer's engines, unless each manufacturer would produce an exact replica of the lowest-emitting baseline engine. For example, the primary cause of the low particulate emissions produced by the best baseline engine may have been an improved fuel injection technique which is available to all manufacturers. However, because the fuel injection system is an integral part of the engine and its efficiency could depend on many other engine parameters (whose effect on particulate emissions are not at this time fully understood), the only way to determine the effect of a modification on a given engine would be to test it on that engine. While EPA could have theoretically performed enough tests on a sufficiently large sample of engines in an attempt to demonstrate that all engines could achieve the emissions of the best baseline engine, the cost of such a program would be enormous and the implementation of this particulate standard would have been postponed by at least 1–2 years. This delay would be unacceptable given the mandate of the Clean Air Act. Given the available data, a standard based on Option 2 might well require the major redesign of virtually all engine families for compliance to be assured. EPA has no basis for supporting the contention that such a major redesign effort would even be possible.

Thus, if EPA chose this approach, it would be possible that a large number of engines might not be able to meet the particulate standard in 1986. In this case, the affected manufacturers could only introduce these engines into commerce if they elected to pay a nonconformance penalty on each engine. While EPA believes that nonconformance penalties have a definite role to play in the regulation of heavy-duty vehicles, we do not believe that Congress intended for nonconformance penalties to be paid in order for most engines to be sold. Yet this situation could arise under Option 2.

Option 3 would use as the starting point for setting the standard the highest single engine-out particulate level from the set of engines made up of each of the five major manufacturer's lowest emitting engine. In other words, Option 3 would set the engine-out particulate level at 0.58 g/BHP-hr (0.22 g/MJ) (see Table 1). An examination of Table 1 shows that a full two-thirds of the engines tested are already emitting less particulate than this level. Thus, this option involves the same problem as discussed above with Option 1; it does not give adequate consideration to the control technology already demonstrated by a substantial majority of the engines being produced today. Thus, while this option might appear to solve the problem of Option 2, that of completely ignoring manufacturer-to-manufacturer differences, it raises the same problem associated with Option 1 and EPA had to reject it from further consideration.

The option chosen by EPA, which bases the feasible level of engine-out particulate emissions on the average of the emission levels of the lowest-emitting engine from each of the five major manufacturers, addresses the problems presented by each of the previous three options and best fulfills the congressional mandate to develop a particulate standard which reflects "the greatest degree of emission reduction achievable . . . giving appropriate consideration to the cost . . . and to noise, energy, and safety factors . . ." It takes into consideration, for example, the ability of several manufacturers to build engines which emit relatively low levels of particulate (see Table 1). Failure to give adequate consideration to such accomplishments (as is the case with options 1 and 3) would be contrary to the above stated requirements of the Clean Air Act. Since 4 of the 5 major manufacturers have already demonstrated their ability to build engines below the 0.41 g/BHP-hr engine-out level (these engines represent approximately 20 percent of domestic sales), the cost or feasibility of extending these techniques to other engine families should not be prohibitive and the widespread use of non-conformance penalties should not be necessary—unlike the scenario presented by Option 2. The fifth manufacturer should also be able to comply since (1) its demonstrated ability to build low-$NO_x$-emitting engines should lessen its possible reliance on $NO_x$ control techniques which increase particulate emissions (relevant discussions of this point can be found in other portions of this document) and (2)

the leadtime available should be sufficient to allow it to incorporate design features of other manufacturers' engines which have already been demonstrated to lower particulate emissions.

By averaging the particulate emission levels of the best engines, the chosen approach recognizes basic manufacturer-to-manufacturer design differences and reflects a more representative range of performance capabilities than other options based on the performance of single engines. The level of 0.41 g/BHP-hr (0.15 g/MJ) is thus a stringent level to use as a starting point, requiring the higher-polluting engines to incorporate, to a great degree, the demonstrated technology of the best engines of a given manufacturer. Yet at the same time it takes into consideration the uncertainties that would be involved in forcing a manufacturer to adopt almost completely the designs employed by its competitors.

While it is possible that a more stringent engine-out level could be identified that would be technologically feasible, EPA does not have sufficient data at this point to support the utilization of such a level. Further study would be required before a more stringent level could be identified and adequately supported. This would only serve to further delay implementation of the standard. Therefore, EPA believes that it is more appropriate to utilize the engine-out level that is supported by the available data. EPA will continue its research in this area and if it becomes evident that a more stringent engine-out level is technologically feasible, EPA will commence a rulemaking to revise the standard accordingly.

Up until this point, we have restricted the discussion of engine-related technology to that already present on existing engines and avoided discussing additional engine modifications which could also reduce particulate emissions. One promising long-term technique in this latter category is to modify the engine to burn methanol. Methanol is an attractive alternative fuel since it (1) can be readily producible from plentiful domestic sources such as coal and biomass, (2) can possibly be produced by more thermally efficient and evironmentally acceptable processes than processes which yield synthetic crudes, (3) can be produced with readily available, commercially proven technology which appears to require less capital investment than syncrude production processes, and (4) appears to have the potential for very low particulate, hydrocarbon and biologically active organic emissions. The potential for reduced particulate emissions makes methanol a promising alternative fuel with regard to this proposed particulate standard. While the proposed particulate standard is achievable without using methanol, its availability and use would simplify the task immensely.

Also of interest is methanol's inherent ability to lower oxides of nitrogen ($NO_x$) emissions from diesel engines, compared to those same engines operating on diesel fuel. This result is primarily due to the lower combustion temperature of methanol-fueled diesel engines. Since Congress has required that $NO_x$ emissions be significantly reduced from this class of vehicles (this topic is discussed below), use of methanol could aid in achieving this goal.

In order to evaluate the emissions-related characteristics of diesel engines operating on methanol, EPA is conducting tests on a dual-fueled Volvo heavy-duty diesel engine. Combustion is initiated in this engine when a relatively small quantity of diesel fuel is injected into the heated combustion chamber; the second fuel, methanol in this case, is then injected and ignited by the burning diesel fuel and serves as the primary source of energy for the engine. Completely separate injection systems accommodate the different fuels in this system. Tests of other methanol-burning engines are planned for the future.

Since methanol has the potential to help lessen the nation's dependence on foreign oil as well as provide a means of attaining cleaner air, EPA invites comments on its use in diesel engines.

In addition to the use of methanol fuel, there are other techniques available which also can reduce engine-out particulate emissions from heavy-duty diesel engines. However, some of these techniques also tend to increase emissions of nitrogren oxides ($NO_x$).[2] This could be problem, since in addition to mandating particulate control Congress also mandated that $NO_x$ emissions from heavy-duty diesels be reduced significantly in 1985. Specifically, $NO_x$ emissions are to be reduced by 75 percent from uncontrolled gasoline engine levels, which translates to about a 1.7 g/BHP-hr standard. The information available to EPA to date has not shown this $NO_x$ level to be feasible for diesels except by using techniques such as retarded timing which increase fuel consumption and increase particulate emissions markedly. Thus, diesels will need every bit of $NO_x$ control that can be found to reach this level. Particulate controls that actually increase $NO_x$ emissions would only aggravate this situation. Thus, EPA will not factor the particulate reductions available from these techniques into its determination of the greatest particulate reduction achievable from heavy-duty diesels.

However, there are some techniques available which can reduce engine-out particulate emissions with increasing $NO_x$ emissions. Data available to EPA has shown that modifications made to a Cummins engine and different modifications made to a Caterpillar engine both resulted in lower particulate emissions and lower $NO_x$ emissions. In addition, the latter engine was already a relatively low particulate emitter. These results, plus the general fact that particulate emissions have yet to be directly controlled and consequently, have yet to be factored into design decision, support the conclusion that engine-out particulate emissions could be reduced below the 0.41 g/BHP-hr level without increasing $NO_x$ emissions.

Before applying these reductions to the 0.41 g/BHP-hr particulate level, however, the Congressional mandate to reduce $NO_x$ emissions must be considered once again. This mandate is very specific, requiring reductions to a specified level. The Congressional mandate to reduce particulate emissions is somewhat less specific, calling only for the greatest reduction achievable without specifying a level. It appears that if diesels are to meet or even approach a $NO_x$ level of 1.7 g/BHP-hr, some increase in particulate emissions may have to result. If the particulate reductions mentioned above were left to offset increases in particulate emissions due to $NO_x$ controls, a lower $NO_x$ level could be achieved. This would increase the likelihood of achieving the Congressional mandate to reduce $NO_x$ emissions. As will be described in the next section, significant reductions in particulate emissions are available from aftertreatment techniques, such as trap-oxidizers. Therefore given (1) that there are other technologies which provide significant particulate reduction and (2) the specificity of the $NO_x$ mandate, EPA has decided that the two Congressional mandates would best be met by reserving the engine-out particulate reductions achievable below 0.41 g/BHP-hr to offset the effects of $NO_x$ control. In this way, the degree of $NO_x$ reduction available to diesels will be enhanced, while significant particulate reductions can still occur via use of trap-oxidizers. Thus, 0.41 g/BHP-hr will be used as the lowest engine-out

[2] See Chapter IV of the Regulatory Analysis for details.

particulate level achievable by all heavy-duty diesels.

While this decision enhances the feasibility of the 1.7 g/BHP-hr $NO_x$ standard it does not insure that net increases in particulate emissions will still not occur due to the implementation of $NO_x$ controls. Any such increases could make the 0.41 g/BHP-hr engine-out particulate level infeasible. To prevent this from occurring, EPA, in its proposals of the $NO_x$ standard will restrict the required $NO_x$ reduction from diesels to that achievable with a 0.41 g/BHP-hr engine-out particulate emission level. In this way, the feasibility of the $NO_x$ standard can be enhanced without affecting the feasibility of the particulate standard being proposed today.

*2. Trap-Oxidizers*

In addition to reducing particulate emissions formed in the combustion process, additional reductions are available from the application of after-treatment devices, particularly trap-oxidizers. A trap-oxidizer basically consists of a high-temperature trapping material housed in a stainless steel shell. Placed in the exhaust, it collects particulate and periodically (or continually) incinerates (oxidizes) it. The incineration process usually requires an initial minimum exhaust temperature of 450–500° C. Because such temperatures may not normally occur in heavy-duty diesel exhaust, exhaust temperatures may need to be artifically raised to the necessary level to permit regeneration (i.e., incineration).

The particulate collection efficiencies of many trap materials have already been demonstrated. Many materials, such as alumina coated wire mesh and metal wool, have shown efficiencies of up to 65 percent. Slightly modified ceramic monolithic substrates (similar to those used in automotive catalysts) have shown collection efficiencies of up to 84 percent. In determining the technologically achievable level of particulate emissions with aftertreatment, EPA has used a 60 percent initial collection efficiency.[3] This is the same efficiency which EPA used to determine the technologically feasible level for the light-duty diesel particulate standard (45 FR 14496).

Several trap-oxidizer regeneration approaches have been investigated. The simplest solution would be to continuously (or near-continuously) oxidize the particulate, in which case the trap-oxidizer would function much like a diesel catalytic converter. The problem with diesel converters is simply in maintaining the high-temperature conditions that ensure continual oxidation. Much effort is being expended on producing converters which would function on diesels, and designs have been tested by EPA that are close to what is needed. An alternative is to oxidize the particulate only occasionally, when enough organic material has been collected by the trap to aid the process and when the exhaust temperature is high enough to initiate oxidation. Many approaches have been suggested to initiate the oxidation process. The most promising is the addition of an inlet air throttle, which would limit the intake air into the combustion chambers and raise the temperature of the exhaust. The throttling would be periodic, and could be actuated by a combination of the odometer reading and rack position, or might have to be linked to a controller unit coordinating several parameters such as rack position, back-pressure, exhaust gas recirculation, etc. In a study using light-duty diesels, GM reported that over a 1000-mile series of load-up and regeneration tests, utilizing throttling to initiate oxidation, the trap collection efficiency actually increased slightly. There appear to be no technical problems with utilizing throttling to initiate oxidation, and there is evidence that throttling may possibly reduce engine-out particulate and $NO_x$ emissions slightly.

Collection efficiencies and regeneration techniques have progressed to the point where the most critical issue is whether the efficiency and regeneration mechanism can be maintained over the useful life of the vehicle. At this time, EPA has only limited trap-oxidizer durability data, as researchers have been reluctant to fund durability testing until other more basic questions such as burn-off control were solved. The problems of durability are problems which lend themselves to engineering solutions; no major new technology is required. Under controlled conditions, existing traps have already been shown to retain their trapping capability over many burn-off cycles. The trapping media and engine controls already appear to exist for a full useful life trap. The major problem remaining is one of characterizing the in-use operating conditions of the engine, so that regeneration may be controlled to always insure that the burn-off temperature stays below that which could damage the trap. As this is primarily a matter of optimizing the trap position in the exhaust and the logic used by the burn-off control device, we are confident that the durability questions will be resolved in the near future.

One aspect of heavy-duty diesel operaton which might appear to cause a durability problem is a longer useful life (in terms of miles) relative to light-duty diesels. Indeed, the average useful life of a heavy-duty diesel is currently 475,000 miles, while that of a light-duty diesel is only 100,000 miles. In terms of years, however, the average heavy-duty diesel is used only nine years, as opposed to ten years for light-duty diesels. This provides some indication of the difference in the types of driving characteristic of the two types of vehicles. Heavy-duty diesels may accumulate large amounts of mileage, but they also do it in a short period of time under relatively steady conditions. This type of driving should be much less damaging to a trap than the shorter trip driving of a light-duty vehicle, where the temperature transients, which can structurally stress the trap, should be much greater. Thus, the useful lives in terms of time, rather than mileage, should be the better indicator of durability requirements of the trap. As heavy-duty diesel engines capture more of the lighter truck market now dominated by gasoline engines, their operation will begin to approach that of light-duty vehicles in at least some aspects. However, EPA expects the useful life of these former gasoline-fueled vehicles to remain the same after dieselization as before. This useful life is only 114,000 miles, which is very close to that of light-duty diesels. Thus, EPA expects that heavy-duty diesels will experience no greater trap durability problems than light-duty diesels.

EPA recognizes that trap-oxidizers are not currently available to permit compliance with the proposed 1986 heavy-duty diesel standard, but given sufficient good faith effort by the manufacturers, 60 percent efficient trap-oxidizers should be available in time to be incorporated on the 1986 model year fleet. As discussed above, the basic concept of the trap-oxidizer is well understood. The improvements that are necessary are engineering problems, such as trap placement and the optimization of the regeneration control. The solution to these problems is more a function of the resources allocated to the problem than any scientific or technical breakthrough, which would be the case if an entirely new trapping media were required.

The recently promulgated light-duty diesel particulate standards (45 FR 14496) call for a final level of control in 1985 based on trap-oxidizer technology. Information gained from the study of

[3] For further details see the Regulatory Analysis.

trap-oxidizers on light-duty diesels to date has centered on areas such as 1) development of a durable, efficient trapping material, 2) understanding the burn-off process, and 3) development of engine control techniques to ensure proper burn-off. Knowledge gained in these areas should be especially applicable to heavy-duty diesels. However, heavy-duty diesels can often operate under different conditions than their light-duty counterparts. For example, they are at times left to idle for periods of several hours (due to inherent cold-start difficulties and to prevent starter wear). This operating characteristic is important to trap-oxidizer regeneration since exhaust temperatures are very cool at idle; high exhaust temperatures are needed to incinerate collected particulate. Thus, means must be devised to allow for trap-oxidizer regeneration while engines are in this mode. While this problem and others do not appear to be insurmountable they do indicate that some additional design effort will be necessary to incorporate trap-oxidizers onto heavy-duty diesels. To facilitate the application and optimization of these devices onto heavy-duty diesels, an additional year is being provided in this proposal beyond the 1985 date of trap-oxidizer introduction for light-duty diesels.

As mentioned earlier, 1986 is also the year that the forthcoming $NO_x$ proposal will apply for these same engines. Many engine design and operational features of heavy-duty diesels affect both these pollutants (see the Regulatory Analysis for further details). As mentioned earlier, some can cause decreased emissions of one pollutant while causing emission levels of the other to increase. As manufacturers will have to design their engines for particulate control while considering the impact on $NO_x$ emissions (and vice versa) it would be most reasonable to have the two standards apply in the same year, allowing design to occur in parallel. Thus, 1986 appears to be a reasonble date to implement the 0.25 g/BHP-hr particulate standard in light of the design and engineering efforts necessary and because of the close relationship between particulate and $NO_x$ emissions.

Left to the marketplace, it is extremely unlikely that sufficient pressure would be brought to bear on the industry to aggressively pursue trap-oxidizer development. Experience has shown the greatest emission control development work to have taken place when direct regulatory incentives were in place. Since final trap-oxidizer designs are not now available to successfully comply with the proposed 1986 standard, to the extent that the standard motivates the industry to aggressively pursue research and development it is a "technology-forcing" standard. The term "technology-forcing" often implies that the sought-after technology is completely unknown or unforeseeable, but such is not the case here. The basic concept of the trap-oxidizer is very well understood, and, as explained above, much development has already occurred. Thus, this rulemaking is technology forcing only in the respect that it will encourage a feasible control strategy that might otherwise be ignored.

*3. Deterioration of Engine and Trap-Oxidizer*

Data indicating the degree of deterioration of heavy-duty diesel engines, with regard to particulate emission, over their useful lives are not available since 1) particulate emissions from heavy-duty diesels have not been regulated before and 2) an adequate test procedure has only recently become available; manufacturers will be required to certify using the transient test procedure beginning with the 1985 model year. However, EPA tests of in-use light-duty diesels having accumulated an average 48,000 miles (77,250 kilometers) indicate that little if any increase in engine-out particulate emissions occurs. With the stability of heavy-duty diesel emissions of other pollutants, the use of similar fuel systems, and the similarity of the general emissions stability of light- and heavy-duty diesels, it is reasonable to project that the engine-out particulate emissions of heavy-duty diesels will deteriorate very little. Heavy-duty diesels were not included in this in-use survey since 1) no zero-mile certification data are available because heavy-duty diesel particulate is not currently regulated and 2) the only available test site has been occupied with the baseline emissions program.

Information on the deterioration of trap-oxidizer efficiency is even more scarce, as none are currently commercially available and durability tests of available prototypes have been waiting until after collection and burn-off techniques were perfected. EPA therefore solicits comments in the areas of anticipated engine and particularly trap-oxidizer deterioration as they relate to particulate emissions. For the purposes of this proposed rulemaking EPA has estimated that the combined engine and trap-oxidizer deterioration will be no more than 20 percent.

*4. Selective Enforcement Auditing and Production-Line Variability*

In addition to complying with EPA's certification process for new engines, heavy-duty diesel manufacturers are also subject to a Selective Enforcement Audit (SEA) of their production engines, the fourth point mentioned above. As is the case for other regulated pollutants, at least 90 percent of a manufacturer's production engines must meet the proposed particulate standard to keep the probability of failing an SEA below 5 percent. This means that manufacturers must achieve excellent quality control or else design their emission control systems to reach levels below the standard on the average. Otherwise, if the control system were designed to just meet the standard, only about half the engines would pass.

To determine how far a manufacturer would have to design below the standard, two factors must be taken into account: 1) the variability of the particulate emissions of the production engines of a given engine family, and 2) the small number of prototypes upon which the design decision is made. The 10 percent acceptable quality level (AQL) could lead manufacturers to design their engines (on the average) to meet a particulate level 1.28 times the existing standard deviation lower than the standard (assuming a normal distribution of emissions) or manufacturers could improve quality control to reduce variability, which would allow them to design closer to the standard.[4] While EPA believes that the production variability of particulate emissions could be reduced from existing levels, the lack of data on the existing variability of production engines, plus the lack of data on the ability to reduce variability, prevents a reliable judgment to be made concerning this ability. The absence of available test facilities also prevents any effort by EPA to obtain such data on its own. Since EPA cannot determine in the case of this regulation that reductions in variability will be sufficient to deal with the effect of a 10 percent AQL, it is reasonable to allow for a reduction in the design target for the average vehicle to account for the presence of a 10 percent AQL. As indicated above, this allowance should be 1.28 times the standard deviation of particulate emissions from production engines. While no actual data on the particulate emission variability of production engines are available, EPA assumed that this variability would be similar to that for gaseous emissions, or 12 percent of

[4] For further details see the Regulatory Analysis.

mean emissions.[5] Given this, the effect of the 10 percent AQL would be to increase the technologically feasible level by 15.4 percent, or a factor of 1.154. Including the effect of basing design decisions on only a small number of prototype engines (assumed to be three in this case) raises this factor to 1.24.

EPA requests data on the actual production line variability of particulate emissions, the degree to which production line variability can be reduced, and also on the methodology used by manufacturers to determine their design targets.

*Derivation of Standard:* All the above mentioned factors were combined to yield the proposed 0.25 g/BHP-hr standard. First, there is the engine-out particulate level of 0.41 g/BHP-hr which is reduced by 60 percent via trap-oxidizer technology to 0.164 g/BHP-hr. Then, taking into account the effect of emission variability and the 10 percent AQL increases this value by a factor of 1.24 to 0.203 g/BHP-hr. Finally, the deterioration factor is 1.2 increases the technologically feasible level to just under 0.25 g/BHP-hr, which is the level being proposed.

*Environmental Impact:* The proposed standard will reduce particulate emissions from heavy-duty diesels by 64 percent in 1995 with respect to what would be expected without regulation. Nationwide particulate emissions in 1995 from heavy-duty diesels will be reduced from approximately 218,000-266,000 metric tons per year to 78,000-95,000 metric tons per year. Urban particulate emissions from these vehicles will also decrease 64 percent in 1995 from 79,000-97,000 metric tons per year to 28,000-35,000 metric tons per year. This emission reduction will reduce ambient heavy-duty diesel particulate levels in large cities (e.g., New York, Chicago, Los Angeles) from 1.7–7.2 to 0.6–2.6 micrograms per cubic meter (annual means). Heavy-duty diesel particulate levels in smaller cities (e.g., St. Louis, Pittsburgh, Phoenix) will also decrease from 1.6–4.9 to 0.6–1.8 micrograms per cubic meter (annual means). Localized levels which occur over and above these larger-scale impacts will also decrease from 4.6–5.6 micrograms per cubic meter to 1.6–2.0 micrograms per cubic meter (annual means). These latter impacts could occur as far as 90 meters from very busy roadways.[6]

The above impacts clearly show the significant reductions in ambient particulate emission levels expected from these regulations. It should be noted, however, that not all types of particulate matter have the same level of impact on human health. Small particles, which are much more likely to be deposited in the alveolar region and which require much longer periods of time to be cleared from the respiratory tract, are believed to be much more deleterious to human health on an equal mass basis than larger particles. Thus, control of diesel particulate (100 percent is less than 15 micrometers in diameter and approximately 97 percent is less than 2.5 micrometers in diameter) is especially important with respect to human health. There is also particular concern over the chemical composition of diesel particulate emissions, as the extractable organic fraction of diesel particulate has been shown to be mutagenic in short-term bioassays. EPA is currently performing a health assessment to determine the carcinogenic risk (if any) to human milk. However, EPA has not based the level of the proposed standard on any presumption of a carcinogenic effect being associated with diesel particulate. Should future results from the diesel health effects studies indicate that further action is necessary to control diesel particulate emissions, EPA will exercise its authority under Title II of the Clean Air Act to do so.

*Economic Impact (All Costs are In Terms of 1980 Dollars):* EPA expects the retail price of heavy-duty diesel vehicles to increase by approximately $527–650 in 1986 due to the engine and vehicle modifications necessitated by this regulation. The retail price increase of a new vehicle mentioned above is about 0.5–3.0 percent of the total cost of a new heavy-duty diesel vehicle. The range of costs is due to possible differences in trap-oxidizer systems which may be used on different models. The trap-oxidizer system is also expected to require maintenance costing about $30 when it is five years old. However, the vehicle modifications involved in adding the trap-oxidizer will eliminate the need to replace the exhaust pipe and muffler throughout the vehicle's life. This will save about $409 in maintenance costs (undiscounted) during the vehicle's life. In all, vehicle maintenance costs should decrease by $178 due to the 1986 standard (discounted to year of vehicle purchase). Overall, then, this regulation will cost $349–472 per vehicle. All of these estimates include profit at both the manufacturer and dealer level. Overall, the increased cost of owning and operating a heavy-duty diesel due to this regulation will be less than 0.3 percent.

Due to past and future increases in the price of gasoline-fueled vehicles due to emission controls and the negligible impact of this regulation on the cost of transporting goods via heavy-duty diesels, EPA expects no decrease in diesel sales relative to the sales of gasoline-fueled vehicles due to aggregate environmental regulation. The aggregate cost of this proposed particulate standard over five years (1986–1990) will be $249–413 million (present value in 1980) or $442–731 million (present value in 1986). Two present value reference points are given because two different conventions have been used in the past; the present (1980) and the year the standard is to be implemented (1986).

Taking all of the above findings into account, the costs of applying the technology necessary to meet the proposed standard appear reasonable. EPA has also examined the impact of this proposal on urban areas and selected communities and no adverse consequences are expected.

*Cost Effectiveness:* Section 202(a)(3)(A)(iii) of the Clean Air Act does not require EPA to conduct a cost benefit analysis. Nevertheless, EPA has examined the cost effectiveness of the proposed particulate standard. In doing this, EPA examined the traditional methodology used to measure cost effectiveness and modified it slightly. The proposed standard appears consistent with recent EPA actions to control stationary and mobile source particulate emissions which in themselves were cost effective.

The traditional measure of cost effectiveness (dollars per metric ton of particulate controlled) can be made more relevant to health improvements by considering only the inhalable (less than or equal to 15 micrometers in diameter) or fine (less than or equal to 2.5 micrometers in diameter) particulate that is controlled. It is the inhalable and, especially, the fine fractions of suspended particulate which appear to have the greatest potential for adverse health impact. When this is done, the marginal cost-effectiveness ratio for the 1986 heavy-duty diesel particulate standard (effect of trap-oxidizers alone) is $1070–1410 per metric ton of inhalable particulate and $1070–1550 per metric ton of fine particulate (1980 dollars). When any of these bases are used, modified or unmodified, the cost effectiveness of heavy-duty diesel control is found to be consistent with the cost effectiveness of particulate control strategies implemented in the past.

It is important to emphasize that in some respects the mobile and stationary

[5] For further details see the Regulatory Analysis.

[6] Consult the Regulatory Analysis for the methodology followed in determining the air quality impact of heavy-duty diesel particulate emissions.

source strategies for particulate control have certain differences in their primary purposes. Therefore, selection of a measure of effectiveness for comparison purposes has inherent limitations. In spite of these, however, the comparison may still be useful to the degree that it focuses on one of these common purposes, protection of public health and welfare.

There is another step which can be taken to improve the measure of cost effectiveness and that is to relate effectiveness to reductions in ambient pollutant concentrations instead of emission reductions. People's exposure to pollutants is directly related to the ambient pollutant concentration of the air they breathe, but only indirectly related to the emissions from various sources. However, the data necessary to perform such calculations are very difficult to obtain and generally not available. Still, to indicate the potential differences between the air quality impacts of different sources, a rudimentary air quality analysis was performed.[7] Using indicators of a source's impact on air quality relative to its emissions, EPA found that both heavy- and light-duty diesels produce between 45 and 188 times the ambient particulate concentration as the largest power plants (2,920 megawatt heat input) based on equivalent emission rates. Similarly, both heavy- and light-duty diesels produce between 1.1 and 4.7 times the ambient pollutant concentration as smaller power plants (73 megawatt heat input) based on equivalent emission rates. No localized impacts from either source were examined, only large-scale impacts. If localized impacts had been examined, the results might have been different. The results from other stationary sources could also be quite different.

Just considering differences in the relationship between emissions and air quality, the results of any comparison of cost effectiveness could be changed drastically. Indeed, there are many other factors which should also be considered. As mentioned earlier, the above ratios are only an extremely rough estimate of the relative air quality impacts of diesels and power plants. Many simplifications were necessary in order to make this comparison at all. Overall, however, the results also indicate clearly that control of diesel particulate is not less cost effective than other cost-effective control measures adopted by EPA using the measures of effectiveness discussed above.

[7] Consult the Regulatory Analysis for further details.

*Alternative Actions:* Control of particulate emissions from heavy-duty diesel vehicles is required by the Clean Air Act. Thus, EPA does not have the discretion to forego control of heavy-duty diesel particulate emissions in favor of other control strategies. However, alternative individual engine standards and/or implementation dates for this heavy-duty diesel particulate standard were examined.

The Clean Air requires this particulate standard to "reflect the greatest degree of emission control achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply." EPA must also give due consideration to cost, energy, and safety. The main goal of our analysis of alternative levels and dates, then, was to determine the level(s) and timing of the standard which best complied with the requirements of the Act.

First, EPA considered implementing a one-step versus a two-step standard. A one-step standard set at the final level of technology (trap-oxidizers) would be available in the same year (1986) as the revised $NO_x$ standards for heavy-duty diesels. As alluded to earlier, manufacturers will be required to certify their engines using the transient test procedure beginning in 1985. This essentially precludes an interim standard earlier than 1985 since it would have to use the 13-mode test procedure, which would not be as representative of in-use particulate emissions as the transient cycle. An interim standard for 1985 would apply for only 1 model year and provide only modest reductions in particulate emissions at a time when no significant increases would be expected, since the $NO_x$ standard would not come into effect until 1986. A standard in 1985 would also divert valuable Agency and industry resources from implementing and meeting the 1986 standards ($NO_x$ and particulate) and shifting them toward a less effective interim particulate standard. In 1986, with the coming of the revised $NO_x$ standard, a particulate standard will be needed to prevent potential increases in particulate emissions. However, by then a standard based on trap-oxidizers could be implemented.

EPA specifically considered a two-step standard with the first standard taking effect in 1986. Under this scenario, the 1986 standard would be based on improved engine design, while the later standard (in this case, 1988) would be based on the use of trap-oxidizers. This alternative would have the advantage of allowing manufacturers more time to develop trap-oxidizers and also separate this work from that related to engine development. Its disadvantages were the added cost of recertifying all engines in 1988 and delaying the primary air quality benefit of the regulation for two more years. EPA also examined the effect of delay on capital and trap-oxidizer costs, but found no substantial advantage resulting from this approach. In all, EPA found that the leadtime advantages of postponing the final level of control did not outweigh the delay of the air quality benefits of a standard which could be implemented in 1986 based on technology and leadtime considerations. This was particularly true given that there appeared to be no great cost benefit involved with delay. For these reasons, EPA chose a one-step standard in 1986. However, EPA would reconsider a two-step standard approach if additional data warranted such action.

Second, EPA considered the possible choices for the level of this standard. These alternative levels have already been discussed in the section on technology and will not be repeated here. In summary, EPA examined the various levels in light of the Clean Air Act requirement that the standard reflect the greatest reduction potential achievable considering the leadtime available and other specified factors and concluded that the standard which is being proposed was appropriate. The issue of cost has already been discussed previously, so no further mention of it will be made here. Since the proposed standard will not affect the fuel economy of heavy-duty diesels, it is reasonable with respect to energy impacts. Based on numerous successful regenerations of prototype trap-oxidizers, EPA also expects that the application of trap-oxidizer technology can and will be made in such a way as to ensure the safe operation of the vehicle.[8] Thus, in consideration of all these factors, we chose the level of 0.25 gram per brake horsepower-hour in 1986 proposed today.

The use of an averaging approach upon which to base the actual particulate standard is not planned for this rulemaking. However, EPA is actively exploring the feasibility of emissions averaging and will be proposing an averaging scheme for controlling $NO_x$ emissions from light- and heavy-duty trucks. The results of this analysis of averaging will in part determine if EPA will consider emissions averaging for this heavy-duty

[8] Consult the Regulatory Analysis for further details.

diesel particulate standard and other existing mobile source emissions standards through future rulemaking actions.

*Major Revisions to the Existing Heavy-Duty Test Procedure:* The recently promulgated gaseous emissions regulations for 1984 and later model year heavy-duty engines (45 FR 4136) included a new test procedure for determining gaseous exhaust emissions from heavy-duty engines. The test procedure specified for diesel engines was very similar to that specified for gasoline engines and applied to the same gaseous pollutants (HC, CO, $NO_x$). With the mandate to regulate particulate emissions, EPA has proposed additions to the heavy-duty diesel test procedure to include the measurement of particulate emissions from diesel engines. These additions will not affect the basic heavy-duty test procedure nor the stringency of the test with respect to gaseous emissions, but merely specify the additional equipment and steps necessary for the measurement of diesel particulate.

Because EPA just recently revamped the heavy-duty engine test procedures and foresaw at that time the need to propose these modifications, we took steps then to ensure that no unnecessary equipment expenses would be incurred by manufacturers and others interested in testing diesel engines. The test procedure modifications being proposed today do require certain pieces of equipment to be use which are not required for gaseous emission testing (e.g., the dilution tunnel). To prevent the need for replacing equipment for measuring gaseous emissions which had been used for only a short period of time (e.g., the dilution tunnel replacing the baffle box) with new equipment to allow measurement of particulate emissions, EPA originally designed the gaseous emission test procedure to allow for the addition of equipment associated with particulate testing without making obsolete any of the equipment used for measuring gaseous emissions. In this way, manufacturers could design their transient test cells to allow for future particulate testing, even though the particulate standards had not yet been proposed, and none of their effort would have been wasted.

Additions and changes to the current Federal Test Procedure (FTP) for diesels that would be brought about by the incorporation of particulate testing are discussed below:

(1) The particulate measurement procedure would require a dilution tunnel and a constant mass sampler (i.e., a heated exchanger must precede the critical flow venturi or the positive displacement pump). The dilution tunnel would have to be sufficiently long to assure thorough mixing at the sampling probes. The use of a mixing box with extensive baffling was rejected because of suspected particulate loss on its surfaces. A constant mass sampler, as opposed to a constant volume sampler, is necessary for particulate testing to insure that the particulate sample taken is proportional to the entire emissions of particulate from the engine at any given time.

(2) The total mass of particulate emissions would be measured simultaneously with regulated gaseous emissions over the transient cycle. The particulate matter, after dilution and mixing with ambient air in a dilution tunnel, would be collected on filter media (fluorocarbon or fluorocarbon-coated glass fiber) over both the cold and hot start portions of the test. The temperature of the diluted exhaust at the location of particulate sampling would have to be kept below 125° F (51.7° C) at all times. This could be accomplished by either of two methods, single or double dilution. With single dilution, the constant mass sampler would have to be of sufficient capacity to maintain the temperature of the entire diluted exhaust below 125° F (51.7° C) at the particulate probe tip. With double dilution, the temperature of the diluted exhaust in the primary tunnel would be allowed to be well above 125° F (51.7° C), but a second dilution of a fraction of the exhaust flow in the primary tunnel would have to maintain the temperature of this smaller sample below 125° F (51.7° C) at all times during the test.

This 125° F (51.7° C) temperature restriction is necessary to insure that heavy hydrocarbons and other organic compounds, which would become associated with the particles upon ambient dilution in real life, are also measured by EPA's test procedure. This temperature requirement also causes some of these heavy organics to be measured twice, once as particulate and once as hydrocarbons. Before the level of exhaust hydrocarbons is measured under EPA's test procedure, the sample is heated to 375° F (191° C) to drive some of these hydrocarbons off of the particulate. These hydrocarbons on the particulate at 125° F (51.7° C) and in the gaseous phase at 375° F (191° C) may participate in oxidant-forming reactions and therefore should be measured as hydrocarbons. These same hydrocarbons may also remain on the particulate and be inhaled as such and therefore should also be measured as particulate.

As can be seen from an examination of the test procedure amendments being proposed today, EPA has republished the entire Subpart N, which contains the transient test procedure for heavy-duty vehicles, gasoline-fueled and diesel, for the 1980 model year. We did this for a number of reasons. One, we hoped that this would provide the user with a single, comprehensive document containing the heavy-duty test procedure for both gaseous and particulate emissions. This would avoid the need to piece this proposal together with past publications in order to obtain a complete test procedure. Two, while the number of substantive changes to the test procedure is limited, the large amount of internal referencing done in Subpart N for descriptive purposes (e.g., see 86.1310-84) requires many sections to be revised because the references will change (to "-86"). Thus, the majority of the sections in Subpart N would have needed to be revised regardless.

While the republication of Subpart N for the 1986 model year makes it easier to use the test procedure in practice, it also makes it more difficult to identify the revisions being proposed today. To aid those interested in finding these revisions, EPA has listed below the sections of Subpart N which contain proposed substantive revisions. Any revisions contained in other sections should only be revised references or the addition of "particulate" to descriptive sentences which currently describe the test procedure as applying only to the measurement of gaseous emissions.

Sections in Subpart N containing proposed substantive revisions are:

§ 86.1308-86
§ 86.1310-86
§ 86.1312-86
§ 86.1320-86
§ 86.1327-86
§ 86.1337-86
§ 86.1339-86
§ 86.1342-86
§ 86.1344-86

*Test Procedure Alternatives:* EPA considered and rejected two alternative techniques for estimating on-the-road particulate emissions. The first was smoke measurement. EPA rejected this technique because 1) smoke does not correlate well with particulate emissions across engine lines and 2) smoke measurements are very inaccurate at the levels encountered over most of the transient cycle.

In spite of this, the presence of the smoke standard has helped to prevent particulate emissions from increasing while no particulate standards were in effect. There is some correlation between smoke and particulate and a worst case test always has some effect on other-than-worst-case conditions. However, a smoke standard is not a viable long-term alternative to a particulate emission standard.

The existing smoke test and standard are being retained along with the addition of particulate testing. The smoke test measures smoke under worst case conditions which are not often encountered over the transient cycle. Therefore, it is unlikely that the particulate standard alone would insure continued compliance with the existing smoke standards. Also, the current smoke standard exists primarily for aesthetic reasons which do not disappear with the addition of particulate testing.

The second technique EPA considered was opti-acoustical measurement. This technique uses a laser beam to heat the particles in the exhaust and measures the resulting pressure waves with a spectrophone. EPA also rejected this technique because (1) it is as yet unproven and (2) it appears to have many of the same correlation problems as smoke measurement, primarily that the acoustical response varies with the chemical composition of the particulate.

*Changes from Previous Draft Test Procedure:* EPA published the "Draft Recommended Practice for Measurement of Gaseous and Particulate Emissions from Heavy-Duty Diesel Engines Under Transient Conditions" in April 1979 and distributed it on May 8, 1979. Two manufacturers—Caterpillar Tractor Company and Cummins Engine Company—responded to the request for comments on the Draft Recommended Practice. One of the more significant responses was Cummins' comment that substantial errors in the instantaneous proportionality of the sample taken from the primary tunnel (up to 25 percent) might result with the double-dilution sampling technique due to the two second residence time in the secondary tunnel. The effect of such an error on particulate measurements would depend on the particle concentrations at the times the sampling errors occurred. However, these instantaneous concentrations cannot be measured at this time.

In its studies of the two systems to date, EPA has found no evidence that any such sampling error actually affects the mass of particulate collected. Rather, the evidence indicated that the two systems produced very comparable results. However, EPA made one modification to the draft recommended practice which should substantially reduce any instantaneous sampling errors and further ensure that no such errors would affect the mass of particulate collected. EPA has reduced the required residence time of the diluted exhaust in the secondary tunnel from 2 to 0.25 seconds. The latter residence time was derived from confirmable light-duty diesel testing using the single dilution technique. It represents the total time necessary after dilution to ensure that the gaseous and particulate phases come to equilibrium before the particulate is collected.

The remainder of the comments from both manufacturers related to very detailed aspects of the test procedure. EPA has incorporated these comments, where possible, into the test procedure being proposed today. Some suggested revisions were not made, however, due to the fact that no data were presented to support the viability of the revision. A detailed analysis of the comments is contained in the docket and can also be obtained by calling or writing the contact person for this regulation (shown above).

*Selective Enforcement Auditing (SEA):* SEA will be performed on production heavy-duty diesel engines beginning in the 1984 model year to determine whether they conform to the regulations under which their respective certificates of conformity were issued. Subpart K of Part 86, SEA of New Gasoline-Fueled and Diesel Heavy-Duty Engines (45 FR 4136, Jan. 21, 1980), describes the program for the testing of these engines. Paragraph § 86.1008–84(a) of Subpart K provides that these engines will be tested in accordance with Subpart N. With the establishment of a new particulate emission standard and the addition of particulate testing procedures to Subpart N, EPA would require SEA testing of heavy-duty diesel engines for compliance with this standard beginning in the 1986 model year.

*Nonconformance Penalties:* Section 206(g) of the Clean Air Act provides for nonconformance penalties (NCPs) ". . . in the case of any class or category of heavy-duty vehicles or engines to which a standard promulgated under section 202(a) of this Act applies. . . ." As discussed elsewhere in this preamble, EPA believes that all heavy-duty diesel engines will be capable of complying with the proposed standard. However, whenever a manufacturer must do substantial development work and/or make substantial modifications of existing emission control techniques in order to both certify and produce heavy-duty diesel engines capable of complying with all regulatory requirements, there is some risk that unforeseen circumstances could result in "technological laggards," i.e., manufacturers whose heavy-duty diesel engines are incapable of complying with the regulation. Therefore, the heavy-duty diesel engines affected by this regulation may be subject to NCPs.

The proposed particulate emission standard for heavy-duty diesel engines is partially based on the application of trap-oxidizer exhaust treatment devices. As discussed in the "Technology" section, the basic trap-oxidizer concept is well understood. However, these devices are not currently available to permit compliance with the proposed standard; various engineering improvements still have to be made. Therefore, trap-oxidizers represent a basically new emission control technique for which substantial development work for heavy-duty diesel engines usage is still required. Manufacturers may experience unforeseen problems in the development and application of successful trap-oxidizers, and it is for this reason that EPA intends to make NCPs available for heavy-duty diesel particulate emissions.

The Agency is not proposing the specific penalty rate or the "upper limit" on allowable particulate emissions in this NPRM. These will be proposed at a later date thorugh separate rulemaking, with full opportunity for public comment. EPA's intention to offer NCPs does not affect leadtime considerations for meeting the proposed particulate standard. The availability of NCPs should not be viewed as a mechanism allowing manufacturers to design to a higher emission standard, but rather as a "safety valve" for those who have made good faith efforts, but are experiencing unforeseen problems in compliance. EPA intends to structure the NCPs, as required by the Act, to remove any competitive disadvantage to manufacturers complying with the standard. The penalty will also increase periodically to provide a further incentive to bring nonconforming engines into compliance or to develop new replacement engines as expeditiously as possible.

*Evaluation Plan:* EPA intends to review the effectiveness and need for continuation of the provisions contained in this action no more than five years after initial implementation of the final regulation. In particular, EPA will solicit comments from affected parties with regard to cost and other burdens associated with compliance and will also review data on the particulate emissions from heavy-duty diesel vehicles built before and after promulgation of the regulation to determine how effective this measure has been.

*Reporting and Recordkeeping Requirements:* This regulation does not require any new significant reporting or recordkeeping burden. However, it does

add particulate matter to the list of exhaust pollutants which are currently regulated from heavy-duty diesels. As such it will have some impact on the current load of reporting and recordkeeping requirements. Specifically, it will require: 1) submission of the design of all new emission control systems added solely for the purpose of particulate control as part of the manufacturer's application for certification: and 2) inclusion of the rate of particulate emission from affected vehicles along with other test results. Both of these additions are quite minor when compared to the current reporting requirements. Detailed designs of the diesel engine are already required and the only device likely to come under 1) above is the trap-oxidizer. Similarly, results from gaseous emission tests are already required and this regulation will only require the addition of a few numbers to whole pages of values.

Given that the reporting requirements of this regulation only involve minor additions to existing requirements, EPA does not find it reasonable to automatically delete these requirements if affirmative action is not taken within five years. Rather, EPA believes that it is in the public's best interest to perform a review of the reporting requirements of this regulation along with the review of all of the reporting requirements of mobile source air pollution regulation. This review of reporting requirements will be part of an overall review of the regulations themselves which will take place within the next five years.

**Note.**—The Administrator has determined that this action is a "Significant" regulation. We have prepared a document entitled "Heavy-Duty Diesel Particulate Regulations: Regulatory Analysis" detailing the Regulatory Analysis and other analyses required by Executive Order 12044 and the Economic Impact Assessment required by Section 317 of the amended Clean Air Act. Anyone may review and reproduce this document in the EPA Central Docket Section. Copies are also available upon request.

Dated: December 23, 1980.

**Douglas M. Costle,**

*Administrator.*

EPA proposes to amend Subparts A and N of 40 CFR Part 86 as set forth below:

1. Section 86.086-11 is revised to read as follows:

**§ 86.086–11 Emission standards for 1986 and later model year diesel heavy-duty engines.**

(a)(1) Exhaust emissions from new 1986 and later model year diesel heavy-duty engines shall not exceed the following:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N).

(ii) *Carbon monoxide.* 15.5 grams per brake horsepower hour as measured under transient operating conditions (Subpart N).

(iii) *Oxides of nitrogen.* 10.7 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N).

(iv) *Particulate matter.* 0.25 grams per brake horepower hour, as measured under transient operating conditions (Subpart N).

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emissions generated over operating schedules as set forth in Subpart N and measured and calculated in accordance with those procedures.

(b)(1) The opacity of smoke emissions from new 1986 and later model year diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and calculated in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1986 model year naturally-aspirated diesel heavy-duty engine. This provision does not apply to turbocharged engines.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts I or N of this part to ascertain that such test engines meet the requirements of paragraphs (a), (b) and (c) of this section.

2. A new § 86.086–28 is proposed to read as follows:

**§ 86.086–28 Compliance with emission standards.**

(a)(1) Paragraph (a) of this section applies to light-duty vehicles.

(2) The applicable exhaust and fuel evaporative emission standards of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicle(s) for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, exhaust NOx, and exhaust particulate (diesel vehicles only) for each engine-system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer (gasoline-fueled vehicles only).

(A) The applicable results to be used in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(*1*) All valid exhaust emission data from the tests required under § 86.086-26(a)(4) except the zero-mile tests. This shall include the official test results, as determined in § 86.084–29 for all tests conducted on all durability-data vehicles of the combination selected under § 86.086–24(c) (including all vehicles elected to be operated by the manufacturer under § 86.086–24(c)(1)(ii)).

(*2*) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.086–25.

(*3*) All exhaust emission data from tests required by maintenance approved under § 86.086–25, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(B) All applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the low-altitude standards provided in § 86.085–8 or § 86.085–9, as applicable, or the data will not be acceptable for use in calculation of a deterioration factor, unless no applicable data point exceeded the standard. An exhaust emission deterioration factor shall be calculated for each engine-system combination as follows:

Factor = Exhaust emissions interpolated to 50,000 miles divided by exhaust emissions interpolated to 4,000 miles.

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29-67.

(C) An evaporative emissions deterioration factor (gasoline-fueled vehicles only) shall be determined from the testing conducted as described in § 86.086-21(g)(4)(i), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

Factor = Evaporative emission level at 50,000 miles minus the evaporative emission level at 4,000 miles.

The factor shall be established to a minimum of two places to the right of the decimal.

(ii)(A) The official exhaust-emission test results for each emission-data vehicle at the 4,000-mile test point shall be multiplied by the appropriate deterioration factor: *Provided:* That if a deterioration factor as computed in paragraph (a)(4)(i)(B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The official evaporative emission test results (gasoline-fueled vehicles only) for each evaporative emission-data vehicle at the 4,000-mile test point shall be adjusted by addition of the appropriate deterioration factor: *Provided:* That if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard shall be the adjusted emissions of paragraphs (a)(4)(ii) (A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29-67, to two significant figures. The rounded emission values may not exceed the standard.

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(v) Every test vehicle of an evaporative emission family must comply with the evaporative emission standard, as determined in paragraph (a)(4)(iii) of this section before any vehicle in that family may be certified.

(b)(1) Paragraph (b) of this section applies to light-duty trucks and heavy-duty engines.

(2) The exhaust and fuel evaporative emission standards of § 86.085-9, § 86.086-10, and § 86.086-11, as appropriate, apply to the emissions of vehicles or engines for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of mileage on the vehicle or engine, deterioration factors will be used in combination with emission-data test results as the basis for determining compliance with the standards.

(4)(i) Paragraph (b)(4) of this section describes the procedure for determining compliance of a new vehicle or engine with exhaust emission standards, based on preliminary deterioration factors supplied by the manufacturer. The procedure described here shall be used for the first model year for which the manufacturer applies for a certificate of conformity with the applicable emission standards for an engine family-control system combination, and for the second model year as well if the criteria of §§ 86.086-26 (b)(3) and (c)(3) are met.

(ii) Separate preliminary exhaust emission deterioration factors, determined from tests of vehicles, engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. Separate factors shall be established for transient HC, CO, and NOx, idle CO (gasoline vehicles and engines only), and exhaust particulate (diesel light-duty trucks and diesel heavy-duty engines only). For heavy-duty diesel engines, separate factors shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and the peak opacity (designated as "C").

(iii)(A) For transient HC, CO, and $NO_x$, idle CO (gasoline vehicles and engines only), and exhaust particulate (diesel light-duty trucks and diesel heavy-duty engines only), the official exhaust emission results for each emission-data vehicle at the 4,000-mile test point, or for each emission-data engine at the 125 hours test point, shall be adjusted by multiplication by the appropriate deterioration factors. However, if the deterioration factors supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(B) acceleration smoke ("A"), lugging smoke ("B"), and peak smoke ("C"), the official exhaust emission results for each emission-data engine at the 125-hour test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29-67 for each emission-data vehicle or engine.

(5)(i) Paragraph (b)(5) of this section describes the procedure for determining compliance of a new vehicle or engine with exhaust emission standards, based upon partial or full results of in-use mileage accumulation.

(ii) Separate emission deterioration factors shall be determined from the emission results collected to date from the durability-data vehicles or engines in each engine-system combinations. Separate factors shall be established for transient HC, CO, and NOx, idle CO (gasoline vehicles and engines only), and exhaust particulate (diesel light-duty trucks and diesel heavy-duty engines only). For heavy-duty diesel engines, separate factors for smoke shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and the peak opacity (designated as "C").

(A) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*1*) The results of the emission tests conducted on light-duty trucks durability-data vehicles after accumulating 4,000-mile according to the Durability Driving Schedule, or on heavy-duty durability-data engine after accumulating 125 hours manufacturer's dynamometer service accumulation schedule. The mileage point for these results shall be taken to be 4,000 miles for the purpose of this section.

(*2*) The results of all emission tests conducted on durability-date vehicles and engines during in-use mileage accumulation, as required or permitted by § 86.086-26(b)(5)(v) (light-duty trucks) or § 86.086-26(c)(5)(v) (heavy-duty engines), except those excluded under § 86.086-25(b)(1)(xi) or § 86.086-26(b)(5)(vii) for light-duty trucks, or § 86.086-25(b)(1)(xi) or § 86.086-26(c)(5)(vii) for heavy-duty engines. The mileage points for heavy-duty engine results shall be adjusted by the addition of 4,000 miles at the time of deterioration factor calculation.

(B) All applicable exhaust emission results shall be plotted as a function of accumulated in-use mileage. Separate plots shall be made for each durability data vehicle or engine. All least squares regression lines plus high mileage values

and low mileage values resulting from the procedures of paragraph (b)(5) shall be shown on these plots.

(C)(*1*) Deterioration factors for each vehicle or engine for transient HC, CO, and NOx, for idle CO (gasoline-fueled vehicles and engines only), and exhaust particulate (light-duty diesel trucks and heavy-duty diesel engines only) shall be calculated by dividing the high mileage value of paragraph (b)(5)(ii)(E) by the low mileage value of paragraph (b)(5)(ii)(D). A factor less than one shall be set equal to one.

(*2*) Deterioration factors for each heavy-duty diesel engine for acceleration smoke ("A"), lugging smoke ("B"), and peak smoke ("C"), shall be calculated by subtracting the low mileage value of paragraph (b)(5)(ii)(D) from the high mileage value of paragraph (b)(5)(ii)(E). A negative factor shall be set equal to zero.

(D) The low mileage value shall be based upon all applicable data for mileage prior to the actual change point for any external aftertreatment device (e.g., catalyst or particulate trap-oxidizers). The best fit straight line shall be fitted to this data by the method of least squares. The low mileage values shall be the value of this line interpolated to the 4,000-mile point.

(E) The high mileage value shall be calculated as follows:

(*1*) Prior to the actual change for any external aftertreatment device, the high mileage value shall be the larger of the values resulting from the following two methods.

(*i*) The best fit straight line fitted by the method of least squares to the applicable data and extrapolated (or interpolated if the in-use mileage accumulation is complete) to the high mileage point. The high mileage point shall be either the useful life or a mileage which represents a point 50 percent of the useful life past the current mileage, whichever is smaller.

(*ii*) The highest of any data points (or average of results if the manufacturer conducted multiple tests at each point) which exceed two standard errors of the estimate from the best fit straight line fitted by the method of least squares to the applicable data.

(*2*) After the actual change of any external aftertreatment device, in the case where only one applicable mileage test point exists after the change, the value (or average of values) shall be compared to the value of the best fit straight line of paragraph (b)(5)(ii)(D) extrapolated to that mileage. If the value (or average of values) falls below the line it shall not be used in the calculations, and the high mileage value shall be as determined in subparagraph (*1*) above. If the value (or average of values) falls on or above the line, the data for the test point after the change of the external aftertreatment device shall be added to the data used in subparagraph (*1*) above and the high mileage value recomputed by the procedure of subparagraph (*1*). In this case, the low mileage value of paragraph (b)(5)(ii)(D) shall also be recalculated based upon inclusion of the additional data.

(*3*) After the actual change of any external aftertreatment device, in the case where two or more applicable data shall be divided into two sets. The first set shall include all data for mileage points prior to the change point. The second set shall include all data for mileage points after the change point. The procedure of subsection (*1*) above shall be performed separately for each set of data. The actual high mileage value shall be that from whichever data set yields the higher value.

(F) The single in-use deterioration factor for each engine family-control system combination for each of transient HC, CO, and $NO_x$, idle CO (gasoline vehicles and engines only), exhaust particulates (diesel light-duty trucks and diesel heavy-duty engines only) and the acceleration, lugging, and peak capacity smoke modes (heavy-duty diesel engines), shall be the arithmetic mean of the corresponding factors for each engine as determined in paragraph (b)(5)(ii)(C) of this section.

(iii)(A) For transient HC, CO, and $NO_x$, idle CO (gasoline vehicles and engines only), and exhaust particulate (diesel light-duty trucks and diesel Heavy-duty engines only), the official exhaust emission results for each emission-data vehicle or engine at the 4,000-mile or 125 hour test point shall be adjusted by multiplication by the appropriate deterioration factor.

(B) For acceleration smoke ("A"), lugging smoke ("B"), and peak smoke ("C"), the official exhaust emission results for each emission-data engine at the 125-hour test point shall be adjusted by the addition of the appropriate deterioriation factor.

(iv) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29-67 for each emission-data vehicle or engine.

(6)(i) Paragraph (b)(6) of this section describes the procedure for determining compliance of a new light-duty truck with fuel evaporative emission standards. The procedure described here shall be used for all vehicles in all model years.

(ii) The manufacturer shall determine, based on testing described in § 86.086-21(b)(4)(ii), and supply an evaporative emission deterioration factor for each evaporative emission family-evaporative emission control system combination. The factor shall be calculated by subtracting the emission level at 4,000 miles from the emission level at the useful life point.

(iii) The official evaporative emission test results for each evaporative emission-data vehicle at the 4,000-mile test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission value to compare with the standards shall be the adjusted emission value of paragraph (b)(6)(iii) of this section rounded to two significant figures in accordance with ASTM E 29-67 for each evaporative emission-data vehicle.

(7) Every test vehicle or engine of an engine family must comply with all applicable standards, as determined in paragraph (b)(4)(iv) or (b)(5)(iv) and paragraph (b)(6) of this section, before any vehicle or engine in that family will be certified.

(C) [Reserved]

(2)-(6) [Reserved]

3. The following sections are added to the table of contents under Subpart N.

**Subpart N—Emission Regulations for New Gasoline-Fueled and Diesel Heavy-Duty Engines; Gaseous and Particulate (Diesels Only) Exhaust Test Procedures**

* * * * *

Sec.

86.1301-86 Scope; applicability.
86.1302-86 Definitions.
86.1303-86 Abbreviations.
86.1304-86 Section numbering; construction.
86.1305-86 Introduction; structure of subpart.
86.1306-86 Equipment required and specifications; overview.
86.1307-86 [Reserved]
86.1308-86 Dynamometer and engine equipment specifications.
86.1309-86 Exhaust gas sampling system; gasoline-fueled engines.
86.1310-86 Exhaust gas sampling and analytical system; diesel engines.
86.1311-86 Exhaust gas analytical system; CVS bag sample.
86.1312-86 Weighing chamber (or room) and microgram balance specifications.
86.1313-86 Fuel specifications.
86.1314-86 Analytical gases.
86.1315-86 [Reserved]
86.1316-86 Calibrations; frequency and overview.
86.1317-86 [Reserved]

86.1318–86 Engine dynamometer calibrations.
86.1319–86 CVS calibration.
86.1320–86 Gas meter or flow instrumentation calibration, particulate measurement.
86.1321–86 Hydrocarbon analyzer calibration.
86.1322–86 Carbon monoxide analyzer calibration.
86.1323–86 Oxides of nitrogen analyzer calibration.
86.1324–86 Carbon dioxide analyzer calibration.
86.1325–86 [Reserved]
86.1326–86 Calibration of other equipment.
86.1327–86 Engine dynamometer test procedures; overview.
86.1328–86 [Reserved]
86.1329–86 [Reserved]
86.1330–86 Test sequence; general requirements.
86.1331–86 [Reserved]
86.1332–86 Engine map procedures.
86.1333–86 Transient test cycle generation.
86.1334–86 Pre-test engine and dynamometer preparation.
86.1335–86 Optional forced engine cool-down procedure.
86.1336–86 Engine starting and restarting.
86.1337–86 Engine dynamometer test run.
86.1338–86 Emission measurement accuracy.
86.1339–86 Diesel particulate filter handling and weighing.
86.1340–86 Exhaust sample analysis.
86.1341–86 Test cycle validation criteria.
86.1342–86 Calculations; exhaust emissions.
86.1343–86 [Reserved]
86.1344–86 Information required.

## Subpart N—Emission Regulations for New Gasoline-Fueled and Diesel Heavy-Duty Engines; Gaseous and Particulate (Diesels Only) Exhaust Test Procedures

4. A new § 86.1301–86 is added and reads as follows:

### § 86.1301–86 Scope; applicability.

This subpart contains gaseous emission test procedures for gasoline-fueled and the gaseous and particulate emission test procedure for heavy-duty diesel engines. It applies to 1986 and late model years.

5. A new § 86.1302–86 is added and reads as follows:

### § 86.1302–86 Definitions.

The definitions in § 86.084–2 apply to this subpart.

6. A new § 86.1303–86 is added and reads as follows:

### § 86.1303–86 Abbreviations.

The abbreviations in § 86.084–3 apply to this subpart.

7. A new § 86.1304–86 is added and reads as follows:

### § 86.1304–86 Section numbering; construction.

(a) The model year of initial applicablity is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is effective. A section remains effective until superseded.

**Example:** Section § 86.1311–86 applies to the 1986 and subsequent model years until superseded. If a section § 86.1311–88 is promulgated it would take effect beginning with the 1988 model year; § 86.1311–86 would apply to model years 1986 through 1987.

(b) A section reference without a model year suffix refers to the section applicable for the appropriate model year.

(c) Unless indicated, all provisions in this subpart apply to both gasoline-fueled and diesel heavy-duty engines.

8. A new § 86.1305–86 is added and reads as follows:

### § 8.1305–86 Introduction; structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to perform exhaust emission tests on gasoline-fueled and diesel heavy-duty engines. Subpart A sets forth the testing requirements and test intervals necessary to comply with EPA certification procedures.

(b) Four topics are addressed in this subpart. Sections 86.1306–86 through 86.1315–86 set forth specifications and equipment requirements; §§ 86.1316–86 through 86.1326–86 discuss calibration methods and frequency; test procedures are listed in §§ 86.1327–86 through 86.1341–86; calculation formulas are found in § 86.1342–86; data requirements are found in § 86.1344–86.

9. A new § 86.1306–86 is added and reads as follows:

### § 86.1306–86 Equipment required and specifications; overview.

This subpart contains procedures for exhaust emissions tests on diesel or gasoline-fueled heavy-duty engines. Equipment required and specifications are as follows:

(a) *Exhaust emission tests.* All engines subject to this subpart are tested for exhaust emissions. Diesel and gasoline-fueled engines are tested identically with the exception of hydrocarbon measurements; diesel engines require a heated hydrocarbon detector, § 86.1310–86. Necessary equipment and specifications appear in sections 86.1308–86 through 86.1311–86.

(b) *Fuel, analytical gas, and engine cycle specifications.* Fuel specifications for exhaust emission testing are specified in § 86.1313–86. Analytical gases are specified in § 86.3414–86. The EPA heavy-duty transient engines cycles for use in exhaust testing are described in § 86.1333–86 and specified in Appendix I.

10. A new § 86.1307–86 is added and reserved as follows:

### § 86.1307–86 [Reserved]

11. A new § 86.1308–86 is added and reads as follows:

### § 86.1308–86 Dynamometer and engine equipment specifications.

(a) *Engine dynamometer.* The engine dynamometer system must be capable of controlling engine torque and rpm simultaneously over transient cycles. The transient torque and rpm schedules described in § 86.1333–86 and specified Appendix I (f and g) must be followed within the accuracy requirements specified in § 86.1341–86. In addition to these general requirements, the dynamometer read out and read out signals for speed and torque shall meet the following accuracy specifications:

(1) Engine speed shall be accurate to within 2 percent of point at all speeds.

(2) Engine torque at the flywheel shall be accurate to within 3 percent of point at all torque settings above 10 percent of full-scale of the torque measuring device. Below 10 percent of full-scale, the torque measuring device shall have an accuracy of:

(i) ±2.5 ft.-lbs., if the full scale value is 550 ft.-lbs. or less.

(ii) ±5 ft.-lbs., if the full scale value is 1050 ft.-lbs. or less.

(iii) ±10 ft.-lbs., if the full scale value is greater than 1050 ft.-lbs.

(3) *Option:* Internal dynamomter signals (i.e., armature current, etc.) may be used for torque measurement provided that it can be shown that the true engine flywheel torque during the test cycle conforms to the test cycle values as specified in § 86.1333–86, and if the technique is approved in advance by the Administrator. The minimum requirement for the Administrator's approval would include compensation for increased or decreased flywheel torque due to the armature inertia during accelerations and decelerations in the test cycle. Engineering data and comparison test results may be required.

(b) *Cycle verification equipment.* In order to verify that the test engine has followed the test cycle correctly, the dynamometer read out signals for speed and torque must be collected in a manner that allows a statistical correlation between the actual engine performance and the test cycle (See § 86.1341–86). Normally this collection process would involve conversion of analog dynamometer signals into digital values for storage in a computer. The conversion of dynamometer read out values into values (computer or other)

that are used to evaluate the validity of engine performance in relation to the test cycle shall be performed in a manner such that:

(1) Speed values used for cycle evaluation are accurate to within 2 percent of the dynamometer speed read out value.

(2) Engine flywheel torque values used for cycle evaluation are accurate to within 3 percent of the dynamometer torque read out value.

(c) *Option:* For some systems it may be more convenient to combine the tolerances in paragraphs (a) and (b). This is permitted if the root mean square method (RMS) is used. The RMS values would then refer to accuracy in relationship to true value.

(1) Speed values used for cycle evaluation shall be accurate to within 2.8 percent of true value.

(2) Engine flywheel torque value used for cycle evaluation shall be accurate to within 4.2 percent of true value.

(d) *Speed calibration equipment.* A 60-tooth (or greater) wheel in combination with a common mode rejection frequency counter is considered an absolute standard for engine or dynamometer speed.

(e) *Torque calibration equipment.* Two techniques are allowed for torque calibration. Alternate techniques may be used if shown to be equivalent, and if prior approval is obtained from the Administrator.

(1) The lever-arm dead-weight technique involves the placement of known weights a known distance from the center of rotation of the torque measuring device. The equipment required is:

(i) *Calibration weights.* A minimum of 6 calibration weights for each range of torque measuring device used are required. The weights must be approximately equally spaced and each must be accurate to 0.5 percent of National Bureau of Standard weights. Laboratories located in foreign countries may certify calibration weights to local government bureau standards. Certification of weight accuracy by state government Bureau of Weights and Measures is acceptable. Effects of changes in gravitational constant at the test site may be accounted for if desired.

(ii) A lever arm with a minimum length of 24 inches. The distance from the center of the engine torque measurement device to the point of weight application shall be accurate to within 0.010 inches. The arm must be balanced or the hanging torque of the arm must be known within ±0.1 ft.-lbs.

(2) The transfer technique involves the use of a master load cell with a method of loading (usually hydraulic) the torque measuring device, or master unit that applies a known force to the torque measuring device based on piston area and pressure. The equipment required is:

(i) A master load cell or force application unit that must be calibrated at each test weight specified in paragraph (e)(1)(i) of this section with known weights traceable to within 0.1 percent of NBS weights. The provision on traceability in (e)(1)(i) apply to this section. The overall accuracy of the calibration curve of torque applied to the engine torque sensor as determined by the master units shall be within 0.5 percent of true value. Below 10 percent of full scale of the master unit the calibration curve of torque applied to the engine torque sensor shall be accurate to:

(A) ±0.5 ft.-lbs. of true value if full scale value is 550 ft.-lbs. or less.

(B) ±1.0 ft.-lbs. of true value if full scale value is 1050 ft.-lbs. or less.

(C) ±2.0 ft.-lbs. of true value if full scale value is greater than 1050 ft.-lbs.

(ii) A lever arm with a minimum length of 24 inches. The distance from the center of the engine torque measuring device to the point of force measurement or application shall be accurate to within 0.010 inches. The arm must be balanced or the hanging torque of the arm must be known within ±0.1 ft.-lbs.

(iii) Transfer of calibration or span from a dynamometer "case" torque value to the engine flywheel torque measuring device is permitted only under static or steady state conditions.

(3) Other techniques may be used if shown to be equivalent and if approved by the Administrator.

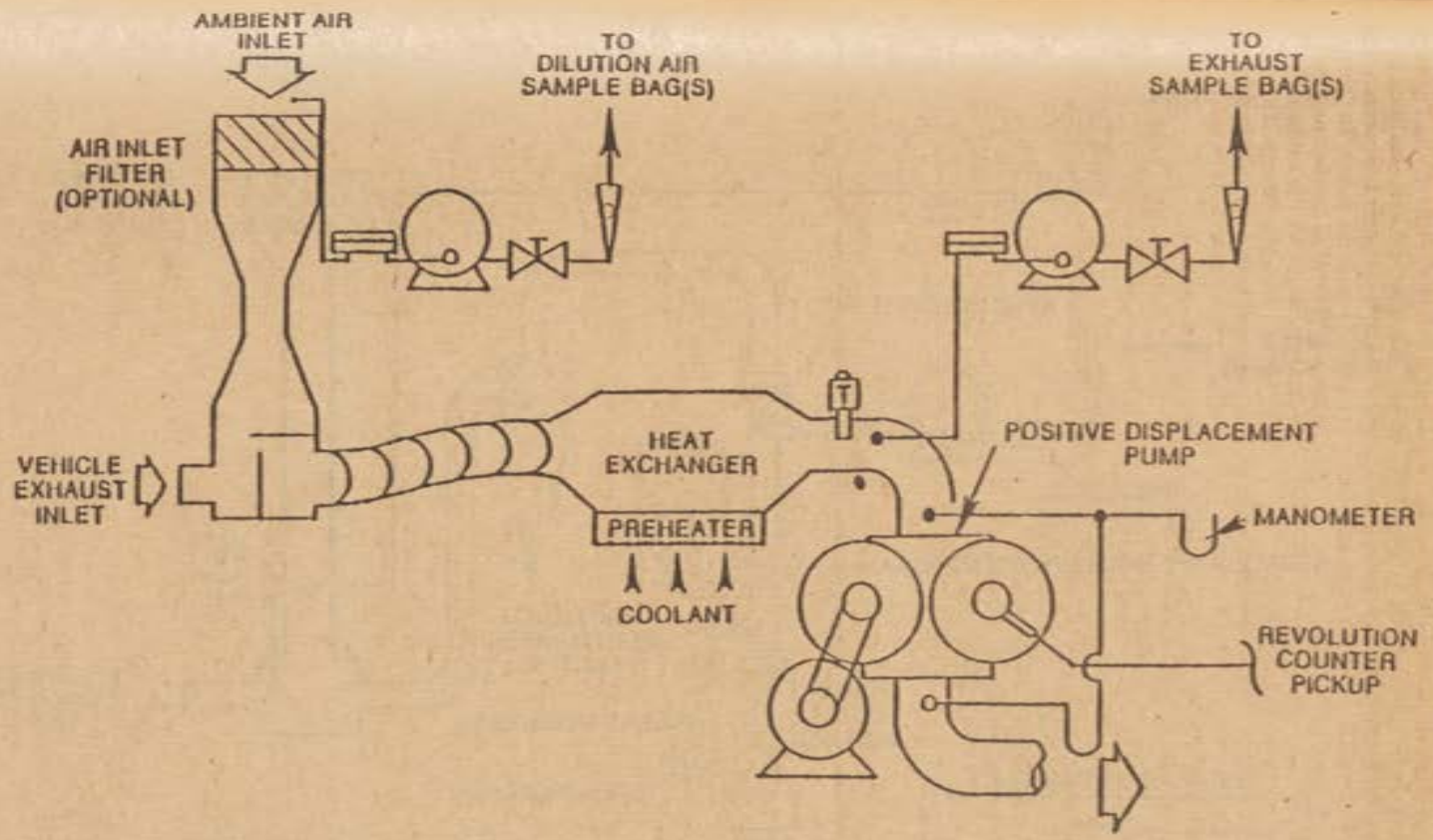
12. A new § 86.1309–86 is added and reads as follows:

**§ 86.1309–86 Exhaust gas sampling system; gasoline-fueled engines.**

(a)(1) *General.* The exhaust gas sampling system is designed to measure the true mass emissions of engine exhaust. In the CVS concept of measuring mass emissions, two conditions must be satisfied: the total volume of the mixture of exhaust and dilution air must be measured, and a continuously proportioned sample of volume must be collected for analysis. Mass emissions are determined from the sample concentration and total flow over the test period. The sampling and continuous analysis system specified in § 86.1310–86 for diesel engines may be used for testing gasoline-fueled engines if the systems meet all of the requirements for such systems as specified in this Subpart.

(2) *Positive displacement pump.* The positive displacement pump—constant volume sampler (PDP—CVS), Figure N86–1, satisfies the first condition by metering at a constant temperature and pressure through the pump. The total volume is measured by counting the revolutions made by the calibrated positive displacement pump. The proportional sample is achieved by sampling at a constant flow rate.

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(SEE FIG. N86-7 FOR SYMBOL LEGEND)

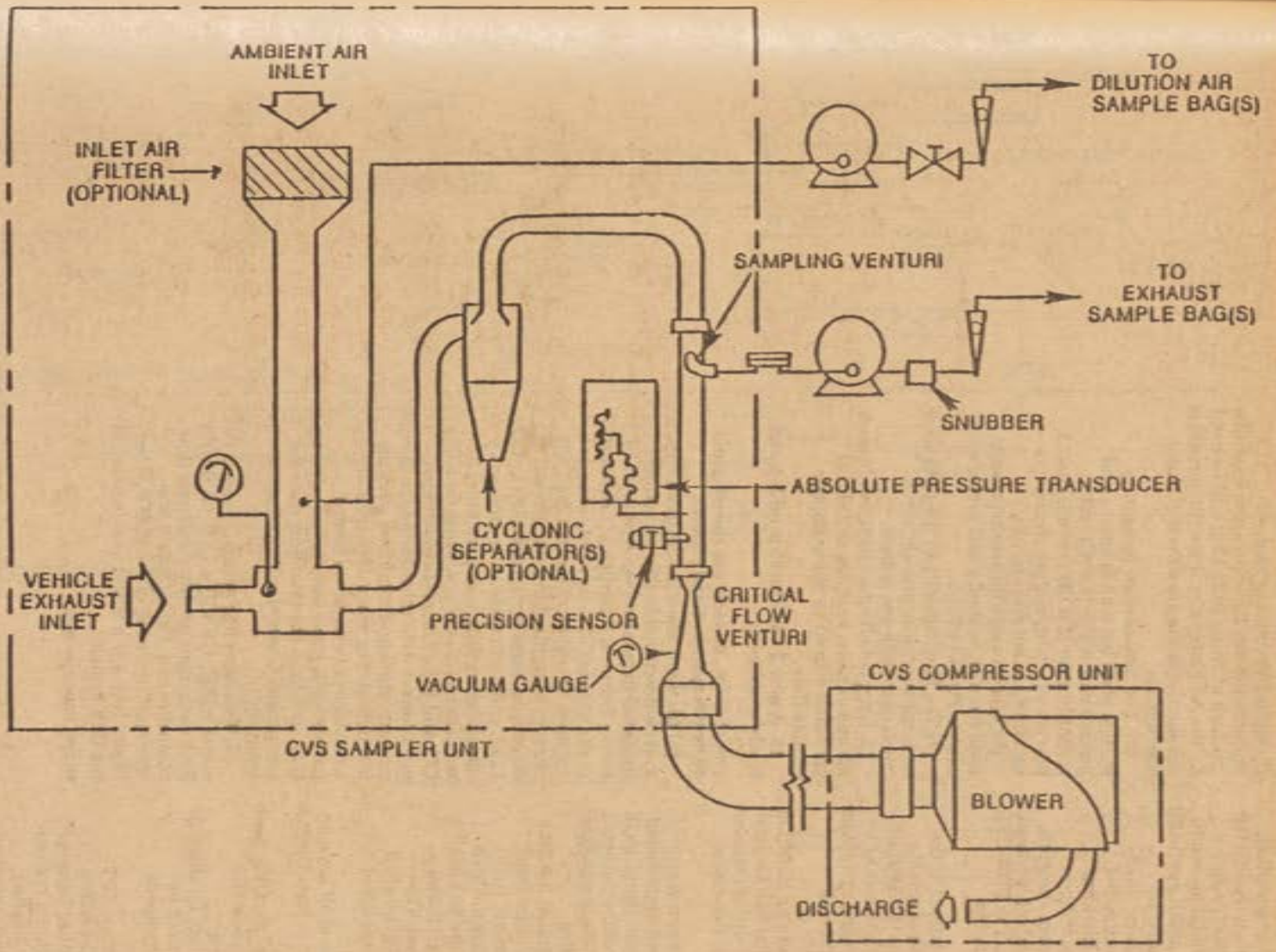
FIGURE N86-1 — EXHAUST GAS SAMPLING SYSTEM PDP-CVS

FOR GASOLINE FUELED ENGINES

BILLING CODE 6560-26-C

(3) *Critical flow venturi.* The operation of the critical flow venturi—constant volume sampler (CFV–CVS), Figure N86–2, is based upon the principles of fluid dynamics associated with critical flow. The CVF system is commonly called a constant volume system (CVS) even though the flow varies. It would be more proper to call the critical flow venturi (CFV) system a constant proportion sampling system since proportional sampling throughout temperature excursions is maintained by use of a small CFV in the sample line. The variable mixture flow rate is maintained at sonic velocity, which is inversely proportional to the square root of the gas temperature, and is computed continuously. Since the pressure and temperature are the same at both venturi inlets, the sample volume is proportional to the total volume.

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(SEE FIG. N86-7 FOR SYMBOL LEGEND)

FIGURE N86-2 — EXHAUST GAS SAMPLING SYSTEM (CFV-CVS)
FOR GASOLINE FUELED ENGINES

BILLING CODE 6560-26-C

(4) *Other systems.* Other sampling and/or analytical systems including the systems described in § 86.1310–86 for diesel engines may be used if shown to yield equivalent results, and if approved in advance by the Administrator.

(b) *Component description, PDP–CVS.* The PDP–CVS, Figure N86–1, consists of a dilution air filter and mixing assembly, heat exchanger, positive displacement pump, sampling system, and associated valves, pressure and temperature sensors. The PDP–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the engine shall remain within ±5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer engine cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The gas mixture temperature, measured at a point immediately ahead of the positive displacement pump, shall be within ±10°F (5.6° C) of the designed operating temperature at the start of the test. The designed operating temperature may be estimated from the average operating temperature from similar tests. The gas mixture temperature variation (after the heat exchanger) during the entire test shall be limited to ±10°F (5.6° C) from its value at the start of the test. The temperature measuring system shall have an accuracy and precision of ±2° F (1.1°C).

(3) The pressure gauges shall have an accuracy and precision of ±3mm Hg (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to eliminate water condensation in the system.

(5) Sample collection bags for dilution air and exhaust samples shall be sufficient size so as not to impede sample flow.

(c) *Component description, CFV–CVS.* The CFV–CVS, Figure N86–2 consists of a dilution air filter (optional) and mixing assembly, optional cyclonic particulate separator(s), sampling venturi, critical flow venturi, sampling system, and assorted valves, pressure and temperature sensors.

The CFV–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ±5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer engine cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The temperature measuring system shall have an accuracy and precision of ±2° F (1.1° C) and a response time of 0.100 seconds to 62.5 percent of a temperature change (as measured in hot silicone oil).

(3) The pressure measuring system shall have an accuracy and precision of ±3mm Hg (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to prevent water condensation in the system.

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow.

13. A new § 86.1310–86 is added and reads as follows:

**§ 86.1310–86 Exhaust gas sampling and analytical system; diesel engines.**

(a) *General.* The exhaust gas sampling system described in this paragraph is designed to measure the true mass of both gaseous and particulate emissions in the exhaust of heavy-duty diesel engines. This system utilizes the CVS concept (described in § 86.1309–86) of measuring mass emissions of $NO_x$, CO, $CO_2$, and particulate. A continuously integrated system is required for HC measurement, and is allowed for $NO_x$, CO, and $CO_2$. The mass of gaseous emissions is determined from the sample concentration and total flow over the test period. The mass of particulate emissions is determined from a proportional mass sample collected on a filter and from the total flow over the test period. General requirements are as follows:

(1) This sampling system requires the use of a PDP–CVS, or a CFV–CVS with heat exchanger or with electronic flow compensation. Figure N86–3 is a schematic drawing of the PDP system. Figure N86–4 is a schematic drawing of the CFV system.

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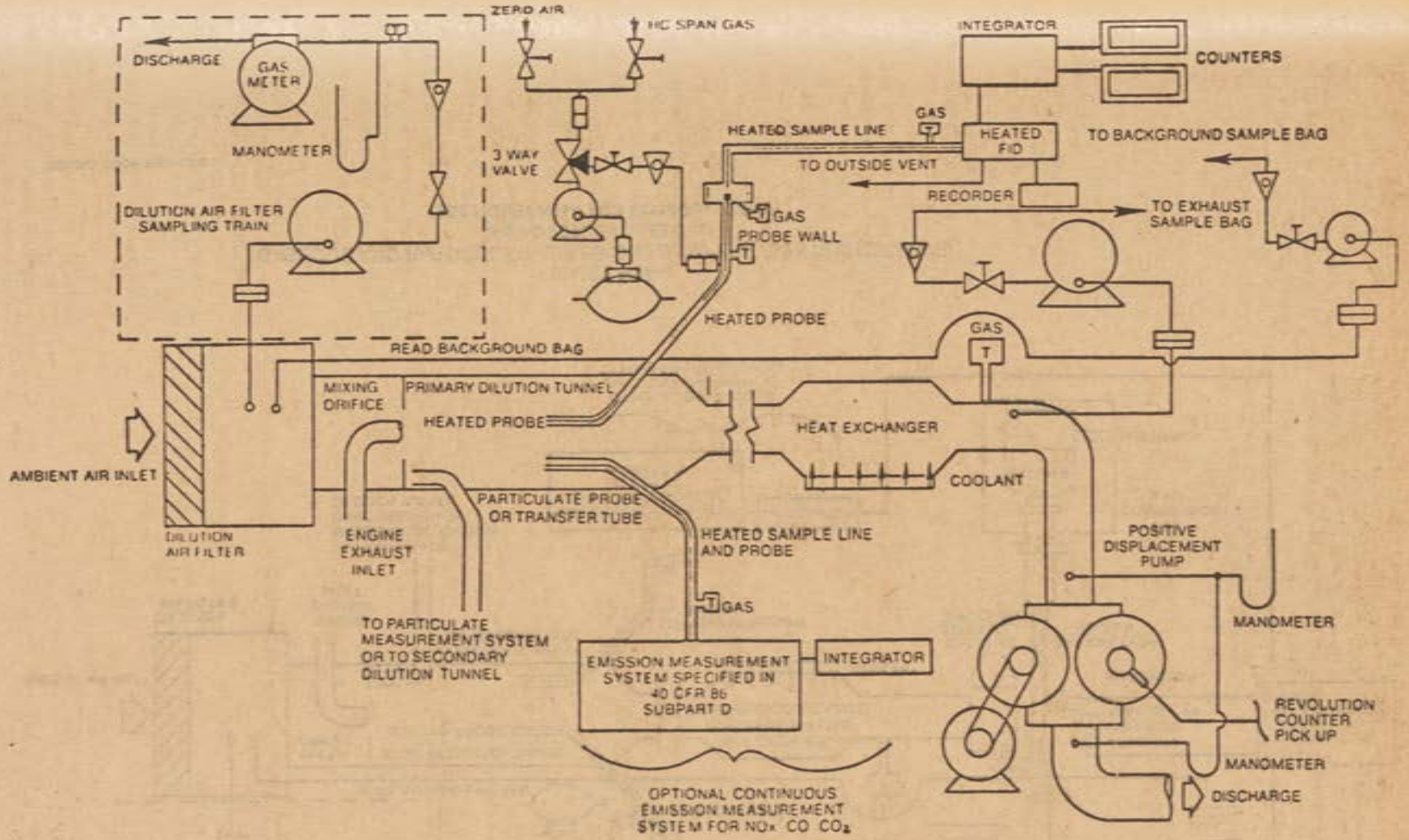



FIGURE N86-3
GASEOUS AND PARTICULATE EMISSIONS SAMPLING SYSTEM (PDP-CVS)
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N86-7 FOR SYMBOL LEGEND)

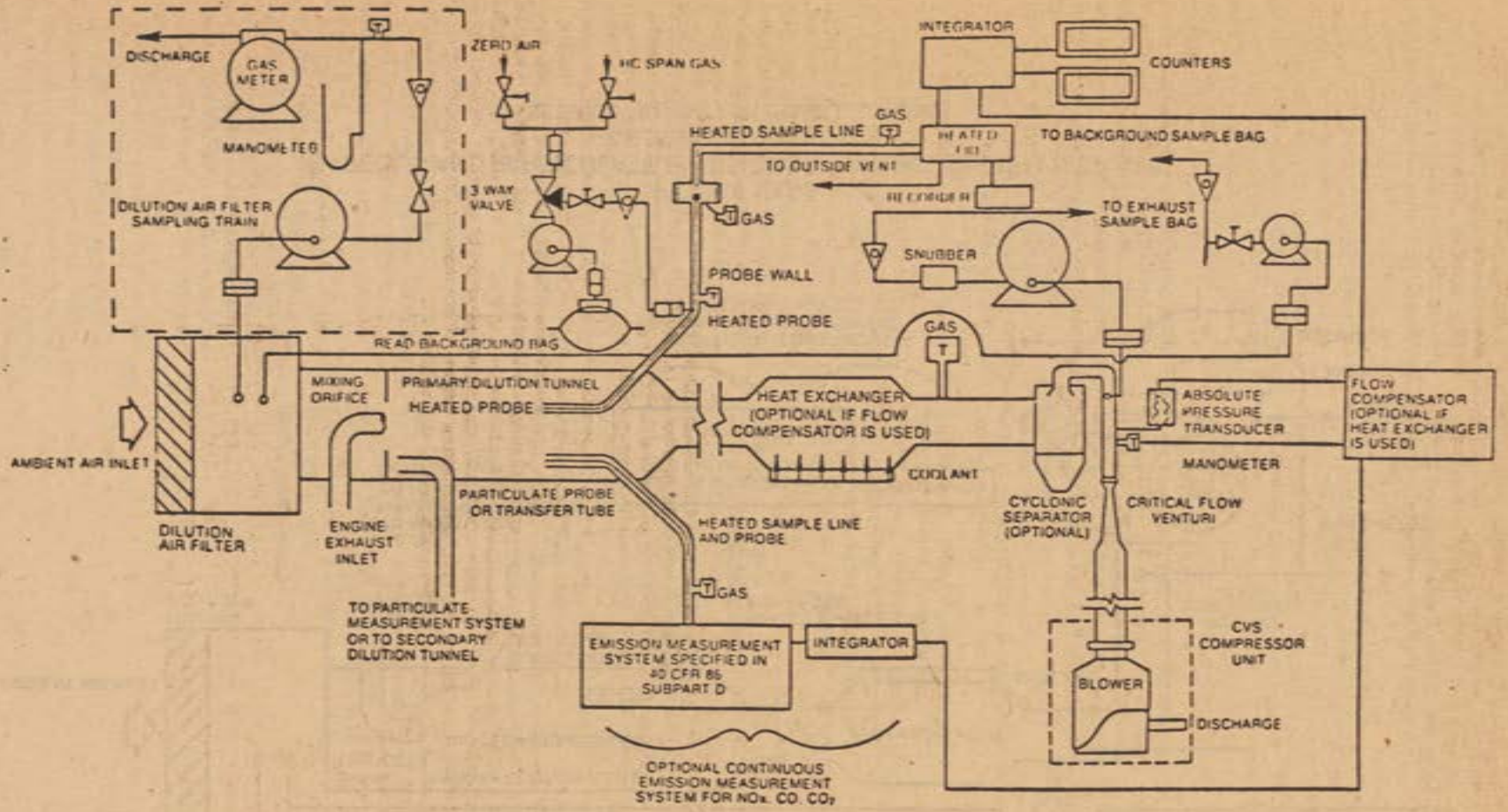



FIGURE N86-4
GASEOUS AND PARTICULATE EMISSIONS SAMPLING SYSTEM (CFV-CVS)
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N86-7 FOR SYMBOL LEGEND)

BILLING CODE 6560-26-C

(2) The HC analytical system for diesel engines requires a heated flame ionization detector (HFID) and heated sample system.

(i) The HFID sample must be taken directly from the diluted exhaust stream through a heated probe and integrated continuously over the test cycle. Unless compensation for varying flow is made, the HFID must be used with a constant flow system to insure a representative sample.

(ii) The heated probe shall be located downstream of a mixing chamber that provides a uniform sample distribution across the CVS duct.

(iii) The dillution tunnel similar to those used for diesel particulate sampling may be used as a mixing chamber for gaseous emissions also.

(3) *Option:* Continously integrated measurement of diluted $NO_x$, CO, and $CO_2$ is permitted; however, prior approval of the Administrator is required. Test results will be required as well as engineering data and detailed system specifications to gain this approval. Minimum requirements and technical specifications are given in (b)(5) of this section.

(4) Bag sampling (§ 86.1309–86) and analytical (§ 86.1311–86) capabilities as shown in N86–3 (or Figure N86–4) are required, to provide both gaseous and particulate emissions sampling capabilities from a single system if $NO_x$, CO or $CO_2$ are not measured continuously.

(5) Since various configurations can produce equivalent results, exact conformance with these drawings is not required. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(6) Other sampling and/or analytical systems may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(b) *Component description.* The components necessary for diesel exhaust sampling shall meet the following requirements:

(1) The PDP–CVS, shall conform to all of the requirements listed for the exhaust gas PDP–CVS (§ 86.1309–86(b)). The CFV–CVS shall conform to all of he requirements listed for the exhaust gas CFV-CVS (§ 86.1309–86(c)). In addition, the CVS must conform to the following requirements:

(i) The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream at a temperature that will satisfactorily measure particulate and/or hydrocarbon measurements. This may be achieved by either of the following methods:

(A) *Single-dilution method.* A CVS of sufficient flow capacity to maintain a temperature of 125° F (51.7° C) or less at the sampling zone may be used with the primary-dilution tunnel. Direct sampling of the particulate material may then take place (Figure N86–5).

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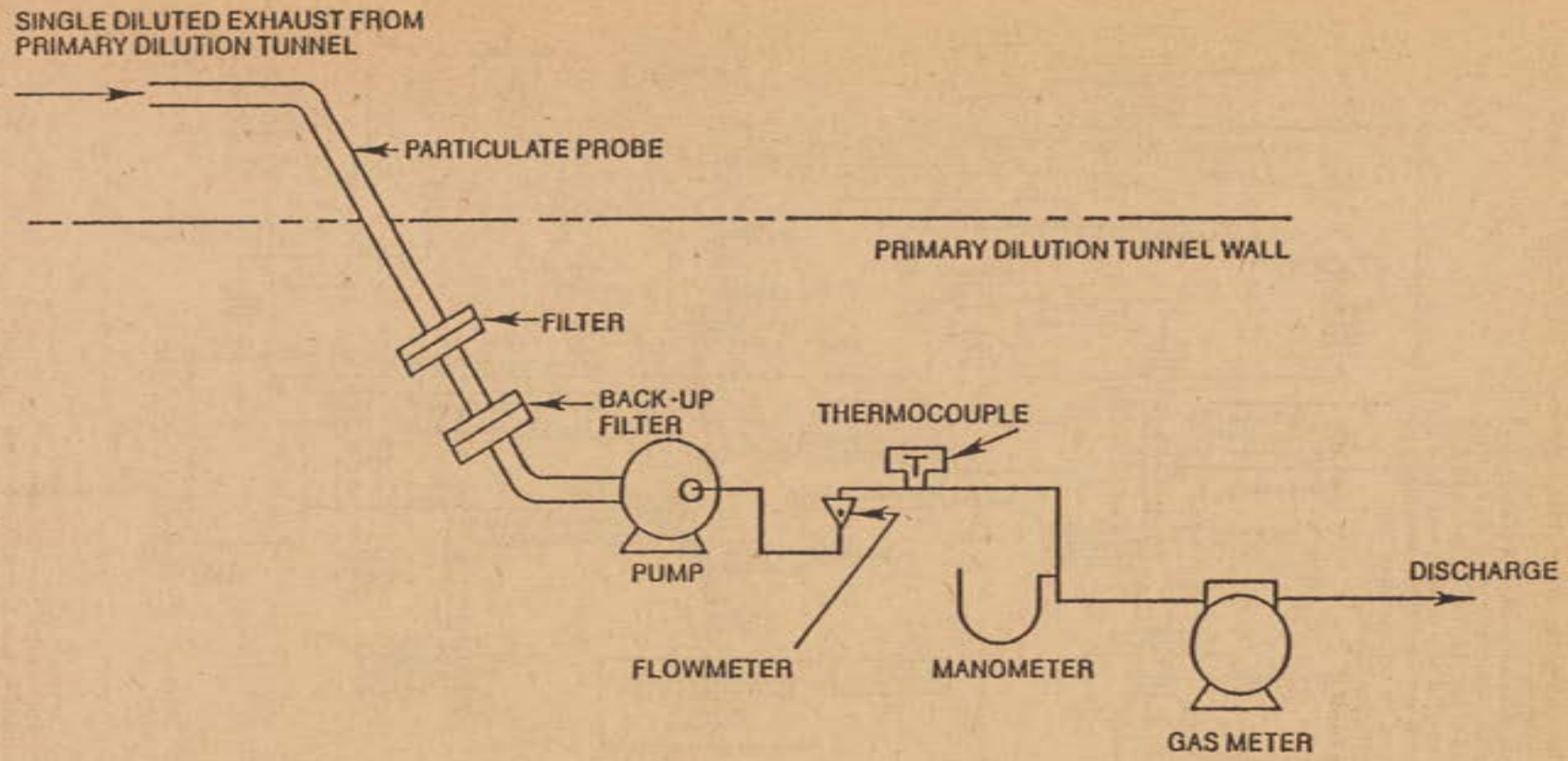



FIGURE N86-5
SINGLE DILUTION PARTICULATE MEASUREMENT SYSTEM
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N86-7 FOR SYMBOL LEGEND)

BILLING CODE 6560-26-C

(B) *Double-dilution method.* A smaller size CVS may be used with a smaller primary-dilution tunnel (i.e., smaller than the dilution tunnel or CVS described in § 86.1310–86(b)(1)(A)), and a secondary-dilution tunnel system (Figure N86–6). The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream in the primary-dilution tunnel at a temperature of 375° F (191° C) or less at the sampling zone. The secondary dilution tunnel system must be designed to provide sufficient secondary dilution air to maintain the double diluted exhaust stream at a temperature of 125° F (51.7° C) or less immediately before the particulate filter.

BILLING CODE 6560-26-M

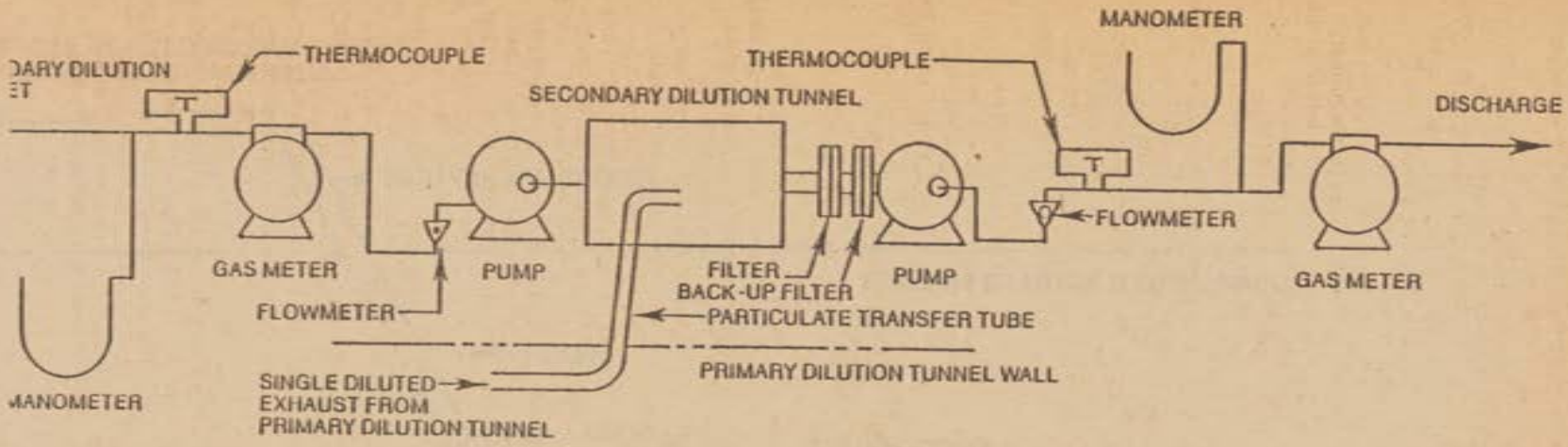



FIGURE N86-6
DOUBLE DILUTION PARTICULATE MEASUREMENT SYSTEM
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N86-7 FOR SYMBOL LEGEND)

BILLING CODE 6560-26-C

(ii) for the CFV–CVS, a heat exchanger or electronic flow compensation (which includes the particulate sample flows) is required (see Figure 86–4).

(iii) For the CFV-CVS, the gas mixture temperature, measured at a point immediately ahead of the critical flow venturi, shall be within ±20° F (11° C) of the designed operating temperature at the start of the test. The gas mixture temperature variation from its value at the start of the test shall be limited to ±20° F (11° C) during the entire test. The temperature measuring system shall have an accuracy and precision of ±2° F (1° C).

(2) The transfer of heat from the engine exhaust gas shall be minimized between the point where it leaves the chassis exhaust system and the point where it enters the primary-dilution tunnel airstream. To accomplish this, a short length (not more than 12 feet (3.66 m) if uninsulated, or not more than 20 feet (6.1 m), if insulated) of smooth stainless steel tubing rom the muffler to the primary-dilution tunnel is required. This tubing shall have a maximum inside diameter of 6.0 inches (15.2 cm). Short sections (altogether not to exceed 20 percent of the entire tube length) of flexible tubing at connection points are allowed. If insulated, the radial thickness of the insulation must be at least R inches, where,

R = 16(k) − 2(r), where
k = Thermal conductivity of the insulating material (Btu/hr-ft-° F), and
r = Outer radius of uninsulated tubing (inches).

(3) The engine exhaust shall be directed downstream at the point where it is introduced into the primary-dilution tunnel.

(4) the primary-dilution air shall be: (i) a temperature of 77±9° F (25±5° C).

(ii) Filtered at the dilution air inlet.

(5) The primary-dilution tunnel shall be:

(i) Sized to permit development of turbulent flow (Reynolds No. >4000) and complete mixing of the exhaust and dilution air between the mixing orifice; and

(ii) At least 18 inches (43 cm) in diameter with a single-dilution system or at least 8 inches (36 cm) in diameter with a double dilution system;

(iii) Constructed of electrically conductive material which does not react with the exhaust components.

(6) The temperature of the diluted exhaust stream inside of the primary-dilution tunnel shall be sufficient to prevent water condensation.

(7) The particulate collection system must be configured in either of two basic ways, and depends upon the dilution method used. The *single-dilution* method utilizes a system that removes a single-diluted proportional sample from the primary tunnel, and then passes this sample through the collection filter (Figure N86–5).

The *double-dilution* method utilizes a collection system that transfers a single-diluted proportional sample from the primary tunnel to a secondary-dilution tunnel where the sample is further diluted, and then passes the complete double-diluted sample through the collection filter (Figure N86–6). In this system proportional sampling is achieved by: (1) introducing the secondary dilution air at a constant mass flow rate, and (2) removing the double-diluted sample at a constant mass flow rate. The requirements for these two systems follow:

(i) *Single-dilution method.* (A) The particulate sample probe shall be:

(*1*) Installed facing upstream at a point where the dilution air and exhaust air are will mixed (i.e., on the primary tunnel centerline, approximately 10 tunnel diameters downstream of the point where the exhaust enters the primary dilution tunnel).

(*2*) Sufficiently distant (radially) from other sampling probes so as to be free from the influence of any wakes or eddies produced by the other probes.

(*3*) 1.27 cm (0.5 in.) minimum inside diameter.

(*4*) The distance from the sampling tip to the filter holder shall be at least 5 probe diameters (for filters located inside of the primary dilution tunnel), but not more than 40 inches (102 cm) for filters located outside of the primary-dilution tunnel.

(*5*) Designed to minimize the deposition of particulate in the probe (e.g., bends should be as gradual as possible, protrusions (due to sensors, etc.) should be smooth and not sudden, etc.).

(B) The particulate sample pump(s) shall be located sufficiently distant from the dilution tunnel so that the inlet gas temperature is maintained at a constant temperature (±5.4° F (3° C)).

(C) The gas meters or flow instrumentation shall be located sufficiently distant from the tunnel so that the inlet gas temperature remains constant(±5° F (2.8° C)).

(ii) *Double-dilution method.* (A) The particulate sample transfer tube shall be configured and installed so that:

(*1*) The inlet faces upstream in the primary-dilution tunnel at a point where the primary-dilution air and exhaust are well mixed (i.e., on the primary tunnel centerline, approximately 10 tunnel diameters downstream of the point where the exhaust enters the primary-dilution tunnel).

(*2*) The exit faces downstream in the secondary-dilution tunnel.

(*3*) The single-diluted sample exists on the centerline of the secondary tunnel.

(B) The particulate sample transfer tube shall be:

(*1*) Sufficiently distant (radially) from other sampling probes (in the primary-dilution tunnel) so as to be free from the influence of any wakes or eddies produced by the other probes.

(*2*) 0.5 inches (1.27 cm) minimum inside diameter.

(*3*) No longer than 35 inches (91.4 cm) from inlet plane to exit plane.

(*4*) Designed to minimize the deposition of particulate during transfer (e.g., bends should be as gradual as possible protrusions (due to sensors, etc.) should be smooth and not sudden, etc.).

(*5*) Constructed of electrically conductive material which does not react with the exhaust components.

(C) The secondary dilution air shall be at a temperature of 77 ±9° F (25 ±5° C).

(D) The secondary-dilution tunnel shall be:

(*1*) 3.0 inches (7.62 cm) minimum inside diameter.

(*2*) Of sufficient length so as to provide a residence time of at least 0.25 seconds for the double-diluted sample.

(*3*) Constructed of electrically conductive material which does not react with the exhaust components.

(E) Additional dilution air must be provided so as to maintain temperature of 125° F (51.7° C) immediately before the sample filter. This dilution air must be introduced at a constant mass flow rate in order to maintain proportional sampling. Determination of the mass of air entering the secondary dilution tunnel is required. Introduction and measurement can be achieved by either of the following methods:

(*1*) A PDP-type pump flowing filtered dilution air at a constant temperature (77 ±9° F (25 ±5° C)) and pressure (atmospheric is acceptable) along with a gas meter or flow instrumentation for mass determination. (See § 86.1320–86 for calibration specifics.) The gas meter or flow instrumentation shall be located so that the inlet gas temperature remains constant (77 ±9° F (25 ±5° C)).

(*2*) A choked critical flow orifice flowing filtered dilution air. For mass determination a gas meter or other surface flow instrumentation is acceptable. (See § 86.1320–86 for calibration specifics.) The gas meter or flow instrumentation shall be located so that the inlet gas temperature remains constant (77 ±9° F (25 ±5° C)).

(F) The primary filter holder shall be located within 12.0 inches (7.5 cm) of the exit of the secondary-dilution tunnel.

(G) The particulate sample pump shall be located sufficiently distant from the dilution tunnel so that the inlet gas temperature is maintained constant (±5° F (2.8° C)).

(H) The gas meter or flow instrumentation (if double-dilution this means the downstream device) shall be located sufficiently distant from the tunnel (either primary or secondary) so that the inlet gas temperature remains constant (±5° F (±2.8° C)).

(8) *Continuous HC measurement system. (i) The continuous HC sample system (as shown in Figure N86–3 or N86–4) shall be an "overflow calibration (or span) gas" type system. In this type of system, excess span or calibration gas spills out of the probe during calibration of the analyzer.*

(ii) No other analyzers may draw a sample from the continuous HC sample probe, line or system.

(iii) The span, calibration, or background sample flow rates into the sample line shall be between 190 and 210 percent of the HFID analyzer flow rate.

(iv) The span, calibration or background gases shall enter the heated sample line no farther than 4 inches from the CVS duct or dilution tunnel outside surface.

(v) The continuous hydrocarbon probe shall be:

(A) Installed in the primary dilution tunnel facing upstream at a point where the dilution air and exhaust are well mixed (i.e., approximately 10 tunnel diameters downstream of the point where the exhaust enters the dilution tunnel).

(B) Sufficiently distant (radially) from other probes so as to be free from the influence of any wakes or eddies produced by the other probes.

(C) Heated and insulated over the entire length to maintain a 375° ±20° F (191° ±11° C) wall temperature. The radial thickness of the insulation must be at least R inches, where

R = 16(k) − 2(r), where
k = Thermal conductivity of insulating material (Btu/hr-ft-° F), and
r = Outer radius of uninsulated probe (inches).

(D) 0.5 in. (1.27 cm) minimum inside diameter.

(vi) It is intended that the total hydrocarbon probe be free from cold spots (i.e., free from spots where the probe *wall* temperature is less than 355° F (180° C)).

(vii) The dilute exhaust *gas* flowing in the total hydroicarbon sample system shall be:

(A) At 375° ±10° F (191° ±6° C) immediately before the heated filter. This *gas* temperature will be determined by a temperature sensor located at the exit of the heated sample line. The sensor shall have an accuracy and precision of ± 2° F(1.1° C).

(B) at 375° ±10° F (191° ±6° C) immediately before HFID. This *gas* temperature will be determined by a temperature sensor located at the exit of the heated sample line. The sensor shall have an accuracy and precions of ±2° F (1.1° C).

(viii) It is intended that the dilute exhaust gas flowing in the total hydrocarbon sample system be between 365° F and 385° F (185° C and 197° C) *gas* temperature.

(ix) The response time of the continuous measurement system shall be:

(A) 1.5 seconds from an instantaneous step change at the probe entrance to the analyzer to within 95 percent of the step change.

(B) 5.5 seconds from an instantaneous step change at the entrance to the sample probe or overflow span gas port to within 95 percent of the step change.

(C) For the purpose of verification of response times, the step change shall be at least 60 percent of fullscale chart deflection.

(9) Optional continuously integrated $NO_x$, CO, and $CO_2$ measurement system.

(i) The sample probe shall:

(A) Be in the same plane as the continuous HC probe, but shall be sufficiently distant (radially) from other probes so as to be free from the influences of any wakes or eddies produced by other probes.

(B) Shall face upstream.

(C) Heated and insulated over the entire length to prevent water condensation, minimum temperature is 55°C (131°F). Sample *gas* temperature immediately before the first filter in the system shall be at least 55°C (131°F).

(ii) The continuous $NO_x$, CO, or $CO_2$ sampling and analysis system shall conform to the specifications of 40 CFR 86, Subpart D with the following exceptions and revisions:

(A) The system components required to be heated by Subpart D need only be heated to prevent water condensation, the minimum temperature allowed is 55°C (131°F).

(B) The system response defined in § 86.329–79 shall be no greater than 5.5 seconds. Longer response time may be allowed if analysis system response time is coordinated with CVS flow fluctuations, is shown to be equivalent to the 5.5 second system, and if prior approval is granted by the Administrator.

(C) Alternative $NO_x$ measurement techniques outlined in § 86.346–79 are not permitted for $NO_x$ measurement in this Subpart.

(D) All analytical gases shall conform to the specifications of § 86.1314–86.

(E) Any range on a linear analyzer below 155 ppm shall have and use a calibration curve conforming to § 86.330–79.

(F) The measurement accuracy requirements specified in § 86.338–79 are superseded by those specified in § 86.1338–86.

(iii) The chart deflections of analyzers with non-linear calibration curves shall be converted to concentration values by the calibration curve(s) specified in Subpart D (86.330–79) before flow correction (if used) and subsequent integration takes place.

(c) *Filters, particulate sampling.*—(1) *Filter acceptance criteria.* Valid diesel particulate net filter weights shall be accepted according to the following criteria:

(i) During the cold start phase of the heavy-duty transient cycle and again during the hot start phase of the heavy-duty transient cycle dilute exhaust will be simultaneously sampled by paired primary test and back-up test filters.

(ii) The back-up filter holder shall be located 3 to 4 inches downstream of the primary filter holder.

(iii) The net weight of particulate material collected on each primary test filter and each back-up test filter shall be determined by the procedure outlined in § 86.1339–85.

(iv) A ratio of net weights will be determined by the following formula:

$$\text{Ratio of net weights} = \frac{(\text{Mass Particulate})_{\text{Test filter}}}{(\text{Mass Particulate})_{\text{Test filter}} + (\text{Mass Particulate})_{\text{Back-up filter}}}$$

(v) If the ratio is greater than 0.95, then particulate emissions calculations are based on the net weight of the primary filter only.

(vi) If the ratio is less than 0.95, then particulate emissions calculations are based on the combined net weights of the back-up filter and the primary test filter.

(2) The particulate filter must have a minimum 70 mm diameter (60 mm stain area). Larger diameter filters are also acceptable. (Larger diameter filters may be desirable in order to reduce the pressure drop across the filter when testing vehicles which produce large amounts of particulate.)

(3) The recommended minimum loading on the 70 mm filter is 5.3 milligrams. Equivalent loadings (ie., mass/stain area) are recommended for larger filters. For equivalency calculations assume the 70 mm loading has a 60 mm stain diameter.

(4) Fluorocarbon coated glass fiber filters or fluorocarbon based (membrane) filters are required for particulate collection.

14. A new § 86.1311–86 is added and reads:

**§ 86.1311–86 Exhaust gas analytical system. CVS bag sample.**

(a) *Schematic drawings.* Figure N86–7 is a schematic drawing of the exhaust gas analytical system used for analyzing CVS bag samples from either gasoline-fueled or diesel engines. The schematic of the hydrocarbon analysis train for diesel engines is shown as part of Figure N86–3 or N86–4. Since various configurations can produce accurate results, exact conformance with the drawing is not required. Additional components such as instruments, valves, solenoids, pumps and switches may be used to provide additional information and coordinate the functions of the component systems.

BILLING CODE 6560-26-M

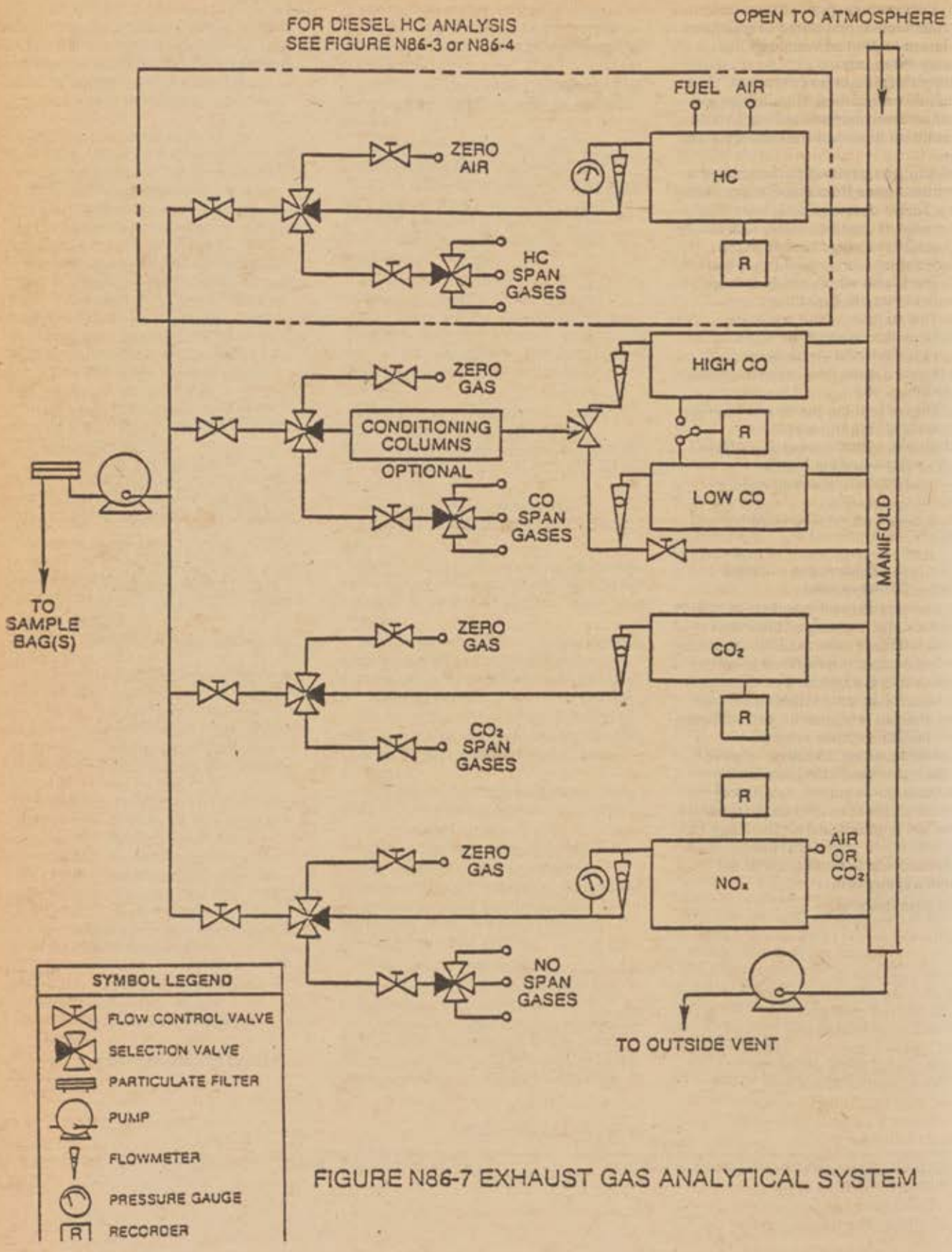



FIGURE N86-7 EXHAUST GAS ANALYTICAL SYSTEM

BILLING CODE 6560-26-C

(b) *Major component description.* The analytical system, Figure N86–7, consists of a flame ionization detector (FID) for the determination of hydrocarbons, nondispersive infrared analyzers (NDIR) for the determination of carbon monoxide and carbon dioxide and a chemiluminescence analyzer (CL) for the determination of oxides of nitrogen. A heated flame ionization detector (HFID) is used for the continuous determination of hydrocarbons from diesel engines, Figure N86–3 or N86–4.

The exhaust gas analytical system shall conform to the following requirements:

(1) The CL requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(2) The carbon monoxide (NDIR) analyzer may require a sample conditioning column containing $CASO_4$, or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

(i) If CO instruments are used which are essentially free of $CO_2$ and water vapor interference, the use of the conditioning column may be deleted. (See § 86.1322–86 and § 86.1342–86.)

(ii) A CO instrument will be considered to be essentially free of $CO_2$ and water vapor interference if its response to a mixture of 3 percent $CO_2$ in $N_2$ which has been bubbled through water at room temperature produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on ranges above 300 ppm full scale or less than 3 ppm on ranges below 300 ppm full scale. (See § 86.1322–86.)

(c) *Alternate analytical systems.* Analysis systems meeting the specifications of 40 CFR 86, Subpart D may be used for testing this Subpart (N) with the exception of §§ 86.346–86 and 86.347–86, provided that the Subpart D systems meet the specifications of this Subpart. Heated analyzers may be used in their heated configuration.

(d) *Other analyzers and equipment.* Other types of analyzers and equipment may be used if shown to yield equivalent results and if approved in advance by the Administrator.

15. A new § 86.1312–86 is added and reads as follows:

**§ 86.1312–86 Weighing chamber (or room) and micorgram balance specifications.**

(a) *Ambient conditions.*— (1) *Temperature.* The temperature of the chamber in which the particulate filters are conditioned and weighed shall be maintained to within ±10° F (6° C) of a set point between 68° F (20° C) and 86° F (30° C) during all filter conditioning and filter weighing.

(2) *Humidity.* The relative humidity of the chamber in which the particulate filters are conditioned and weighed shall be maintained to within ±10 percent of a set point between 30 and 70 percent during all filter conditioning and filter weighing.

(3) The environment shall be free from any ambient contaminates (such as dust) that would settle on the particulate filters during their stabilization. It is required that two reference filters remain in the weighing room at all times, and that these filters be weighed at the beginning and end of each conditioning period. If the weight of either or both of these two reference filters changes by more than ±1.0 percent of the nominal filter loading (a minimum of 5.3 milligrams, if possible) during the conditioning period, then all filters in the process of being stabilized should be discarded, and any tests repeated. The reference filters shall be changed at least once per month.

(b) *Microgram balance specifications.* The microgram balance used to determine the weights of all filters shall have an accuracy and a readability of one microgram.

16. A new § 86.1313–86 is added and reads as follows:

**§ 86.1313–86 Fuel specifications.**

(a) *Gasoline.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in exhaust testing, except that the lead and octane specifications do not apply.

| Item | ASTM | Leaded | Unleaded |
|---|---|---|---|
| Octane, research, minimum. | D2699 | 98 | 93 |
| Pb. (organic), gm/U.S. gallon. | | [1] 1.4 | 0.00–0.05 |
| Distillation range: | | | |
| IBP, °F | D86 | 75–95 | 75–95 |
| 10 percent point, °F. | D86 | 120–135 | 120–135 |
| 50 percent point, °F. | D86 | 200–230 | 200–230 |
| 90 percent point, °F. | D86 | 300–325 | 300–325 |
| EP, °F (maximum). | D86 | 415 | 415 |
| Sulphur, weight percent, (max). | D1266 | 0.10 | 0.10 |
| Phosphorus, gm/U.S. gallon (max). | | 0.01 | 0.005 |
| RVP, psi | D323 | 8.7–9.2 | 8.7–9.2 |
| Hydrocarbon composition: | | | |
| Olefins, percent, (max). | D1319 | 10 | 10 |
| Aeromatics, percent (max). | D1319 | 35 | 35 |
| Saturates | D1319 | [2] | [2] |

[1] Minimum.
[2] Remainder.

(2) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. For leaded gasoline the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use of a gasoline with a different lead content. The octane rating of the gasoline used shall be not higher than 1.0 Research octane number above the minimum recommended by the manufacturer and have a minimum sensitivity of 7.5 octane numbers, where sensitivity is defined as the Research octane number minus the Motor octane number. The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(3) The specification range of the gasoline to be used under paragraph (a)(2) of this section shall be reported in accordance wih § 86.084–21(b)(3).

(b) *Diesel fuel.* (1) The diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The diesel fuel may contain nonmetallic additives as follows: Cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(2) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of diesel fuel recommended by the engine manufacturer commercially designated as "Type 1–D" or "Type 2–D" grade diesel fuel shall be used.

| Item | ASTM | Type 1–D | Type 2–D |
|---|---|---|---|
| Cetane | D613 | 48–54 | 42–50 |
| Distillation range: | | | |
| IBP °F | D86 | 330–390 | 340–400 |
| 10 percent point, °F. | D86 | 370–430 | 400–460 |
| 50 percent point, °F. | D86 | 410–480 | 470–540 |

| Item | ASTM | Type 1-D | Type 2-D |
|---|---|---|---|
| 90 percent point, °F. | D86 | 460-520 | 550-610 |
| EP, °F. | D86 | 500-560 | 580-660 |
| Gravity, °API | D287 | 40-44 | 33-37 |
| Total Sulfur, percent | D129 or D2622. | 0.05-0.20 | 0.2-0.5 |
| Hydrocarbon composition: | | | |
| Aromatics, percent. | D1319 | [1]8 | [1]27 |
| Paraffins, Naphthenes, Olenfins. | D1319 | (2) | (2) |
| Flashpoint, °F (minimum). | D93 | 120 | 130 |
| Viscosity, Centistokes. | D445 | 1.6-2.0 | 2.0-3.2 |

[1] Minimum.
[2] Remainder.

(3) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of diesel fuel recommended by the engine manufacturer, commercially designated as "Type 1-D" or "Type 2-D" grade diesel fuel shall be used.

| Item | ASTM | Type 1-D | Type 2-D |
|---|---|---|---|
| Cetane (minimum) | D613 | 42-56 | 30-58 |
| Distillation range: 90 percent point, °F. | D86 | 440-530 | 540-630 |
| Gravity °APM | D287 | 39-45 | 30-42 |
| Total sulfur, percent (minimum). | D129 or D2622. | [1]0.05 | 0.2 |
| Flashpoint, °F (minimum). | D93 | 120 | 130 |
| Viscosity, centistokes. | D455 | 1.2-2.2 | 1.5-4.5 |

[1] Minimum.

(4) Other petroleum distillate fuels may be used for testing and service accumulation provided they are:

(i) Commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service;

(iii) Use of a fuel listed under paragraphs(b)(2) and (b)(3) of this section would have a detrimental effect on emissions or durability;

(iv) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(5) The specification range of the fuels to be used under paragraphs (b)(2), (b)(3), and (b)(4) of this section shall be reported in accordance with § 86.084-21(b)(3).

17. A new § 86.1314-86 is added and reads as follows:

**§ 86.1314-86 Analytical gases.**

(a) Gases for the CO and $CO_2$ analyzers shall be singl blends of CO and $CO_2$ respectively using nitrogen as the diluent.

(b) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(c) Gases for the $NO_x$ analyzer shall be single blends of NO named as $NO_x$ with a maximum $NO_2$ concentration of 5 percent of the nominal value using nitrogen as the diluent.

(d) Fuel for the FID shall be a blend of 40±2 percent hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. 98 to 100 percent hydrogen fuel may be used with advance approval of the Administrator.

(e) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide and 0.1 ppm nitric oxide.

(f)(1) "Zero-grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(2) Calibration gases shall be traceable to within 1 percent of NBS gas standards, or other gas standards which have been approved by the Administrator.

(3) Span gases shall be accurate to within 2 percent of true concentration, where true concentration refers to NBS gas standards, or other gas standards which have been approved by the Administrator.

(g) The use of proportioning and precision blending devices to obtain the required gas concentrations is allowable provided their use has been approved in advance by the Administrator.

18. A new 86.1315-86 is added and reserved as follows:

**§ 86.1315-86 [Reserved]**

19. A new § 86.1316-86 is added and reads as follows:

**§ 86.1316-86 Calibrations; frequency and overview.**

(a) Calibrations shall be performed as specified in §§ 86.1318-86 through 86.1326-86.

(b) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the hydrocarbon analyzer, carbon dioxide analyzer, cargon monoxide analyzer, and oxides of nitrogen analyzer.

(2) Calibrate the engine dynamometer flywheel torque and speed measurement transducers.

(3) Calibrate the engine flywheel torque and speed feedback signals.

(c) At least weekly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Check the oxides of nitrogen converter efficiency, and;

(2) Perform a CVS system verification.

(d) The CVS positive displacement pump or critical flow venturi shall be calibrated following initial installation, major maintenance or as necessary when indicated by the CVS system verification (described in § 86.1319-86).

(e) Sample conditioning columns, if used in the CO analyzer train, should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

20. A new § 86.1317-86 is added and reserved as follows:

**§ 86.1317-86 [Reserved]**

21. A new § 86.1318-86 is added and reads as follows:

**§ 86.1318-86 Engine dynamometer system calibration.**

(a) The engine flywheel torque and engine speed measurement transducers shall be calibrated at least once each month with the calibration equipment described in § 86.1308-86.

(b) The engine flywheel torque and speed feedback signal shall be calibrated at least once each month.

(c) Other engine dynamometer system calibrations shall be performed as dictated by good engineering practice and manufacturer's recommendations.

(d) When calibrating the engine flywheel torque transducer, any lever arm used to convert a weight or a force through a distance into a torque shall be used in a horizontal position (±5 degrees).

(e) Calibrated resistors may not be used for engine flywheel torque transducer calibration, but may be used to span the transducer prior to engine testing.

22. A new § 86.1319-86 is added and reads as follows:

**§ 86.1319-86 CVS calibration.**

(a) The CVS is calibrated using an accurate flowmeter and restrictor valve. The calibrated accuracy of the flowmeter shall be traceable to the National Bureau of Standards to within 1 percent of the true flow value. (Note: In no case should an upstream screen or other restriction which can effect the flow be used ahead of the flowmeter unless calibrated throughout the flow range with such a device.) The CVS calibration procedures are designed for use of a "metering venturi" type flowmeter. Properly calibrated large radius or ASME flow nozzels are considered equivalent if traceable to

NBS measurements. Other measurement systems may be used if shown to be equivalent under the test conditions in this action and if approved by the Administrator. Measurements of the various flowmeter parameters are recorded and related to flow through the CVS. Procedures used by EPA for both PDP- and CFV-CVS's are outlined below. Other procedures yielding equivalent results may be used if approved in advance by the Administrator.

(b) After the calibration curve has been obtained, verification of the entire system may be performed by injecting a known mass of gas into the system and comparing the mass indicated by the system to the true mass injected. An indicated error does not necessarily mean that the calibration is wrong, since other factors can influence the accurancy of the system, e.g. analyzer calibration or HC hangup. A verification procedure is found in paragraph (e) of this section.

(c) *PDP calibration.* (1) The following calibration procedure outlines the equipment, the test configuration, and the various parameters which must be measured to establish the flow rate of the CVS pump.

(i) All the parameters related to the pump are simultaneously measured with the parameters related to a flowmeter which is connected in series with the pump.

(ii) The calculated flow rate $ft^3$/min., (at pump inlet absolute pressure and temperature) can then be plotted versus a correlation function which is the value of a specific combination of pump parameters.

(iii) The linear equation which relates the pumpflow and the correlation function is then determined.

(iv) In the event that a CVS has a multiple speed drive, a calibration for each range used must be performed.

(2) This calibration procedure is based on the measurement of the absolute values of the pump and flowmeter parameters that relate the flow rate at each point. Three conditions must be maintained to assure the accuracy and integrity of the calibration curve:

(i) The pump pressures should be measured at taps on the pump rather than at the external piping on the pump inlet and outlet. (Pressure taps that are mounted at the top center and botton center of the pump drive headplate are exposed to the actual pump cavity pressure, and therefore reflect the absolute pressure differentials.)

(ii) The temperature stability must be maintained during calibration. (Flowmeters are sensitive to inlet temperature oscillations which cause the data points to be scattered. Gradual changes in temperature are acceptable as long as they occur over a period of several minutes.)

(iii) All connections between the flowmeter and the CVS pump must be absolutely void of any leakage.

(3) During an exhaust emission test the measurement of these same pump parameters enables the user to calculate the flow rate from the calibration equation.

(4) Connect a system as shown in Figure N86-8. Although particular types of equipment are shown, other configurations that yield equivalent results may be used if approved in advance by the Administrator. For the system indicated, the following data with given accuracy are required:

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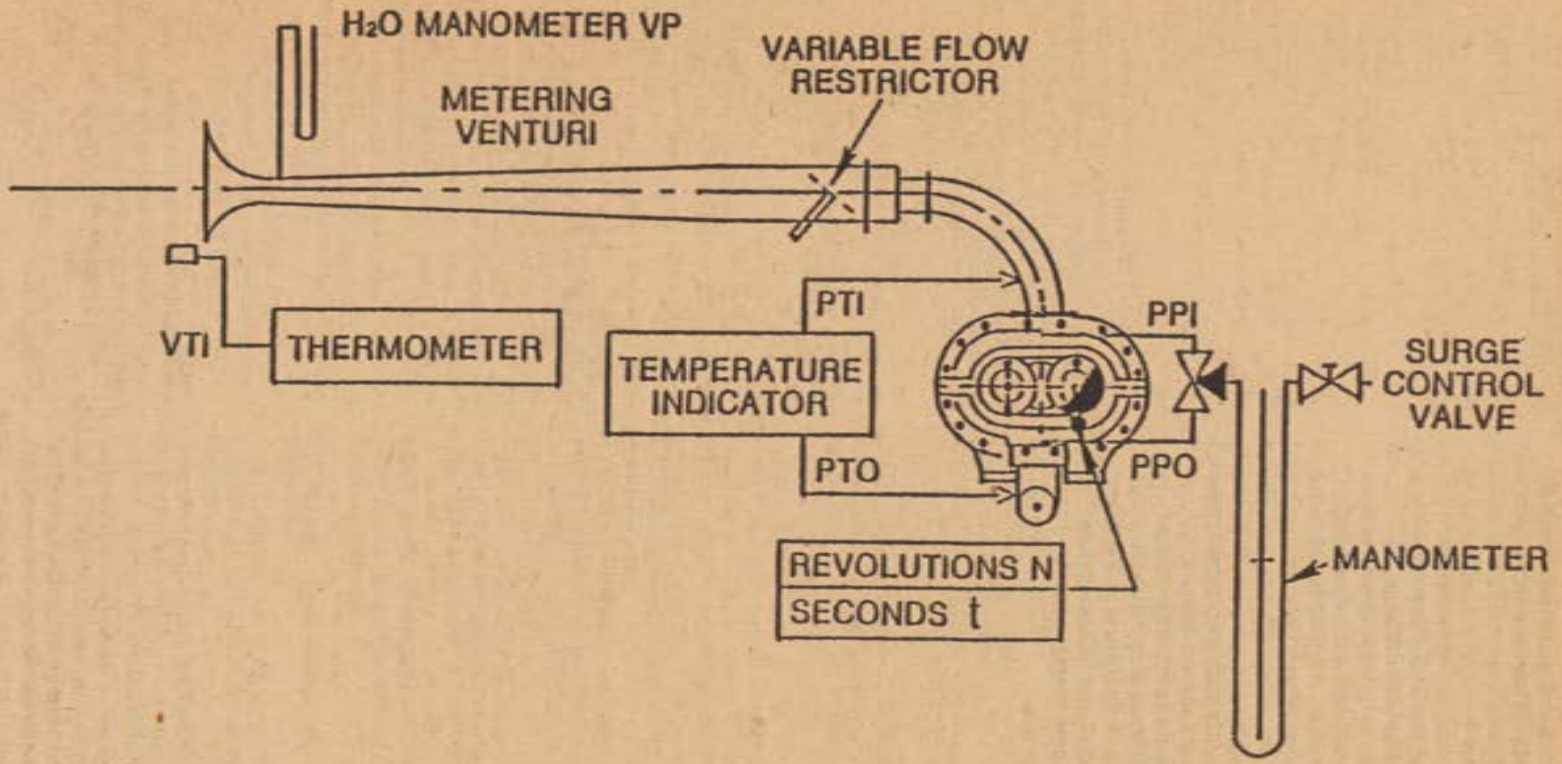



FIGURE N86-8 — PDP-CVS CALIBRATION CONFIGURATION

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**Calibration Data Measurements**

| Parameter | Symbol | Units | Tolerances |
|---|---|---|---|
| Barometric pressure (corrected) | $P_B$ | In. Hg (kPa) | ±.01 in. Hg (±.034 kPa). |
| Ambient temperature | $T_A$ | °F (°C) | ±.5°F (±.28°C). |
| Air temperature into SFV | ETI | °F (°C) | ±.50 °F (±.28°C). |
| Pressure drop between SFV inlet and throat | EDP | In. $H_2O$ (kPa) | ±.05 in. $H_2O$ (±.012 KPa). |
| Air temperature at CVS pump inlet | PTI | °F (°C) | ±.5°F (±.28°C). |
| Pressure depression at CVS pump inlet | PPI | In. fluid (kPa) | ±.05 in. fluid (±.022 kPa). |
| Specific gravity of manometer fluid (1.75 oil) | Sp. G | | |
| Pressure head at CVS pump outlet | PPO | In. fluid (kPa) | ±.05 in. fluid (±.022 kPa). |
| Air Temperature at CVS pump outlet (optional) | PTO | °F (°C) | ±.5°F (±.28°C). |
| Pump revolutions during test period | N | Revs | ±1 Rev. |
| Elapsed time for test period | t | s | ±.05 s. |

(5) After the system has been connected as shown in Figure N86–8, set the variable restrictor in the wide open position and run the CVS pump for 20 minutes. Record the calibration data.

(6) Reset the restrictor valve to a more restricted condition in an increment of pump inlet depression that will yield a minimum of six data points for the total calibration. Allow the system to stabilize for 3 minutes and repeat the data acquisition.

(7) *Data analysis:* (i) The air flow rate, Qs, at each test point is calculated in standard cubic feet per minute (68° F, 29.92"HG) from the flowmeter data using the manufacturer's prescribed method.

(ii) The air flow rate is then converted to pump flow, $V_o$, in cubic feet per revolution at absolute pump inlet temperature and pressure.

$$V_o = \frac{Qs}{n} \times \frac{T_p}{528} \times \frac{29.92}{P_p}$$

Where:

$V_o$ = Pump flow, $ft^3$/revolution ($m^3$/revolution) at $T_p$, $P_p$.

Qs = Meter air flow rate in standard cubic feet per minute, standard conditions are 68° F, 29.92 in. Hg (20° C, 101.3 kPa).

n = Pump speed in revolutions per minute.

T = Pump inlet temperature R(K)

P = PTI + 460 (°R), or = PTI + 273 (°K)

$P_p$ = Absolute pump inlet pressure, in. Hg (kPa)

$P_p = P - PPI$ (Sp. Gr/13.57) for SI units, $P_p = P_B - PPI$

Where:

$P_B$ = barometric pressure, in. Hg (kPa).

PPI = Pump inlet depression, in. fluid (kPa).

Sp. Gr. = Specific gravity of manometer fluid relative to water.

(iii) The correlation function at each test point is then calculated from the calibration data.

$$x_o = \frac{1}{n}\sqrt{\frac{P_p}{P_e}}$$

Where:

$x_o$ = correlation function.

$\Delta P_p$ = The pressure differential from pump inlet to pump outlet, in. Hg (kPa).

$= P_e - P_p$

$P_e$ = Absolute pump outlet pressure, in. Hg (kPa)

$= P_B + PPO$ (Sp. Gr./13.57) for SI units, $P_e = P_B + PPO$

(d) *CFV calibration.* (1) Calibration of the CFV is based upon the flow equation for a critical venturi. Gas flow is a function of inlet pressure and temperature:

$$Q_s = \frac{K_v P}{\sqrt{T}}$$

Where:

$Q_s$ = flow.

$K_v$ = calibration coefficient.

P = absolute pressure.

T = absolute temperature.

The calibration procedure described below establishes the value of the calibration coefficient at measured values of pressure, temperature and air flow.

(2) The manufacturer's recommended procedure shall be followed for calibrating electronic portions of the CFV.

(3) Measurements necessary for flow calibration are as follows:

**Calibration Data Measurements**

| Parameter | Symbol | Units | Tolerances |
|---|---|---|---|
| Barometric Pressure (corrected) | $P_B$ | In. Hg (kPa) | ±.01 in. Hg (±.034 kPa). |
| Air temperature, flowmeter | ETI | °F (°C) | ±.50° F (±.28° C). |
| Pressure drop between SFV inlet and throat | EDP | In. $H_2O$ (kPa) | ±.05 in. $H_2O$ (±.012 kPa). |
| Air flow | $Q_s$ | $Ft^3$/min. ($m^3$/min.) | ±.5%. |
| CFV inlet depression | PPI | In. fluid (kPa) | ±.05 in. fluid (±.022 kPa). |
| Temperature at venturi inlet | $T_v$ | °F (°C) | ±.5° F (±.28° C). |
| Specific gravity of manometer fluid (1.75 oil) | Sp. Gr | | |

(4) Set up equipment as shown in Figure N86–9 and check for leaks. Any leaks between the flow measuring devices and the critical flow venturi will seriously affect the accuracy of the calibration.

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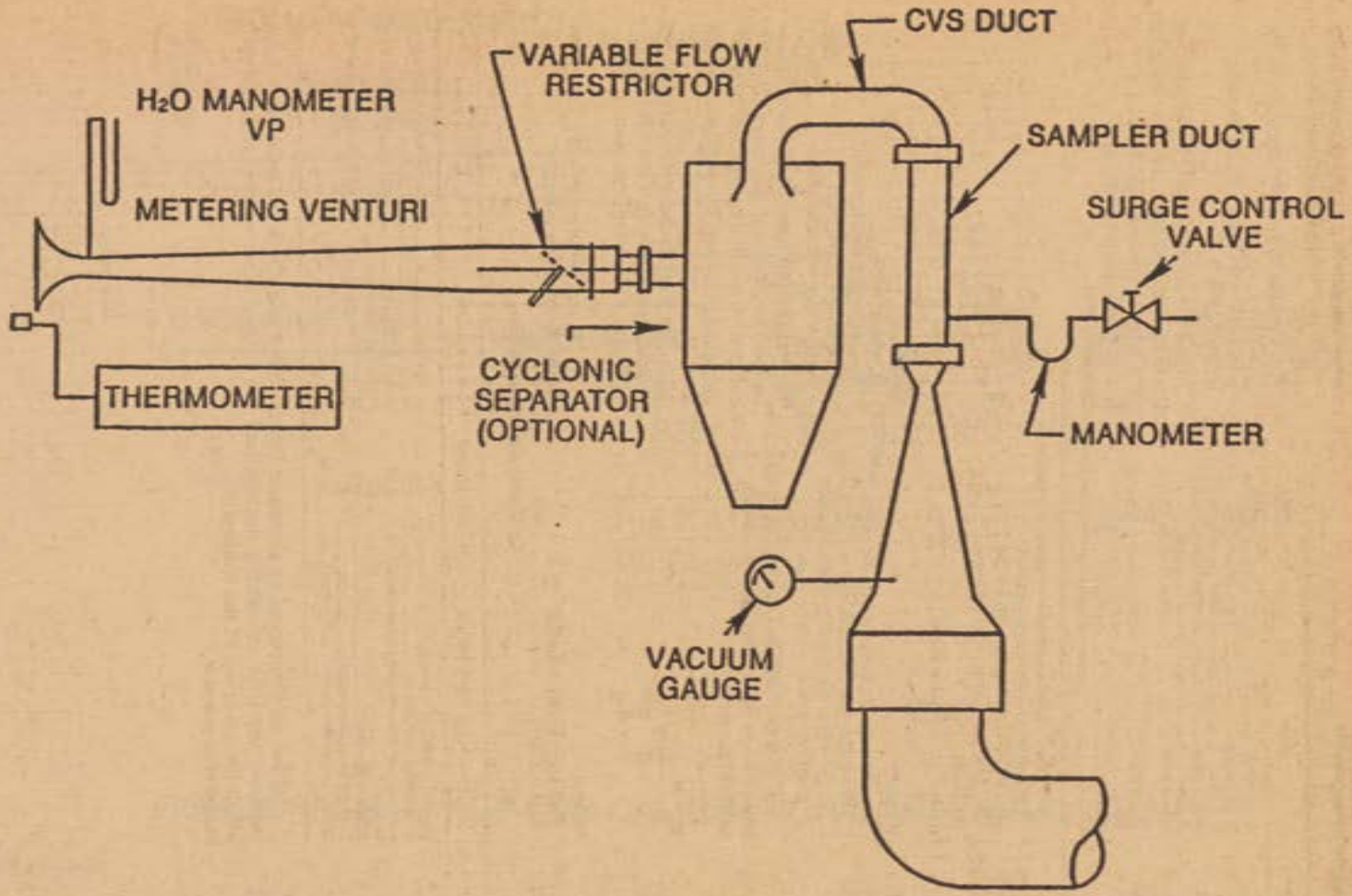



FIGURE N86-9 — CFV-CVS CALIBRATION CONFIGURATION

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(5) Set the variable flow restrictor to the open position, start the blower, and allow the system to stabilize. Record data from all instruments.

(6) Vary the flow restrictor and make at least 8 readings across the critical flow range of the venturi.

(7) *Data analysis.* The data recorded during the calibration are to be use in the following calculations:

(i) The air flow rate, $Q_s$, at each test point is calculated in standard cubic feet per minute from the flow meter data using the manufacturer's prescribed method.

(ii) Calculate values of the calibration coefficient for each test point:

$$K_v = \frac{Q_s \sqrt{T_v}}{P_v}$$

Where:

$Q_s$ = Flow rate in standard cubic feet per minute, standard conditions are 68°F, 29.92 in. Hg (20°C, 101.3 kPa).

$T_v$ = Temperature at venturi inlet, R(K).

$P_v$ = Pressure at venturi inlet, mm Hg (kPa).

$= P_b$-PPI (Sp. Gr./13.57).

for SI units: $P_v = P_b - PPI$

Where:

PPI = Venturi inlet pressure depression, in. Fluid (kPa).

Sp. Gr. = Specific gravity of manometer fluid, relative to water.

(iii) Plot $K_v$ as a function of venturi inlet pressure. For sonic flow, $K_v$ will have a relatively constant value. As pressure decreases (vacuum increases), the venturi becomes unchoked and $K_v$ decreases. See Figuree N86–10

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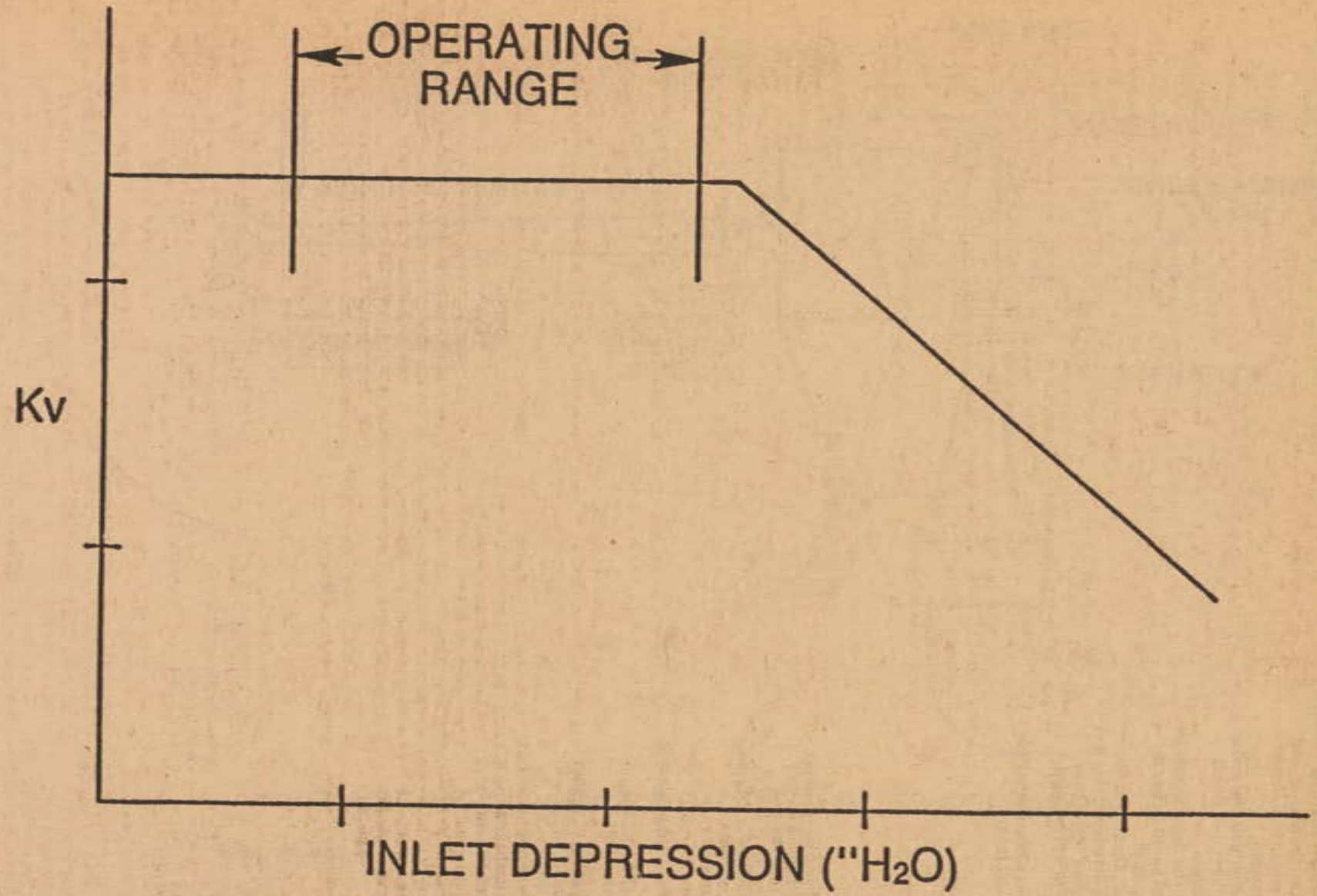



FIGURE N86-10 — SONIC FLOW CHOKING

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(iv) for a minimum of 8 points in the critical region calculate an average $K_v$ and the standard deviation.

(v) If the standard deviation exceeds 0.3 percent of the average $K_v$ take corrective action.

(e) *CVS system verification.* The following "gravimetric" technique can be used to verifty that the CVS and analytical instruments can accurately measure a mass of gas that has been injected into the system. (Verification can also be accomplished by constant flow metering using critical flow orifice devices.)

(1) Obtain a small cylinder that has been charged with pure propane or carbon monoxide gas (caution—carbon monoxide is poisonous).

(2) Determine a reference cylinder weight to the nearest 0.01 grams.

(3) Operate the CVS in the normal manner and release a quantity of pure propane or carbon monoxide into the system during the sampling period (approximately 5 minutes).

(4) The calculations of § 86.1342–86 are performed in the normal way except in the case of propane. The density of propane (17.56 g/ft³/carbon atom (0.6201 kg/m³/carbon atom)) is used in place of the density of exhaust hydrocarbons. In the case of carbon monoxide, the density of 32.97 g/ft³ (1.164 kg/m³) is used.

(5) The gravimetric mass is subtracted from the CVS measured mass and then divided by the gravimetric mass to determine the percent accuracy of the system.

(6) Good engineering practice requires that the cause for any discrepancy greater than ±2 percent must be found and corrected.

23. A new § 86.1320–86 is added and reads as follows:

**§ 86.1320–86 Gas meter or flow instrumentation calibration, particulate measurement.**

Sampling for particulate emissions requires the use of gas meters or flow instrumentation to determine flow through the particulate filters. This instrument shall receive initial and periodic calibrations as follows:

(a)(1) Install a standard air flow measurement device (such as laminar flow element) upstream of the instrument. This standard device shall measure air flow at standard conditions. Standard conditions are defined as 68°F (20°C) and 29.92 inches of mercury (101.3 kPa). A critical flow orifice, a bellmouth nozzle, or a laminar flow element is recommended as the standard device.

(2) Flow air through the calibration system at the sample flow rate used for particulate testing and at the backpressure which occurs during the sample test.

(3) When the temperature and pressure in the system have stabilized, measure the gas meter indicated volume of the instrument over a time period of at least 5 minutes and until a flow volume of af least ± 1 percent accuracy can be determined by the standard device. Record the stabilized air temperature and pressure upstream of the instrument and as required for the standard device.

(4) Calculate air flow at standard conditions as measured by both the standard device and the instrument.

(5) Repeat the procedures of paragraphs (b) through (d) above using flow rates which are 10 percent above the nominal sampling flow rate and 10 percent below the nominal sampling flow rate.

(6) If the air flow at standard conditions measured by the instrument differs by more than ± 1 percent from the standard measurement at any of the three measured flow rates, then a correction shall be made by either of the following two methods:

(i) Mechanically adjust the instrument so that it agrees within 1 percent of the standard measurement at the three specified flow rates, or

(ii) Develop a continuous best fit calibration curve for the instrument (as a function of the standard device flow measurement) from the three calibration points that represents the data to within 1 percent at all points to determine corrected flow.

(b) *Other systems.* A bell prover may be used to calibrate the instrument if the procedure outlined in ANSI B109.1–1973 is used. Prior approval by the Administrator is not required to use the bell prover.

24. A new § 86.1321–86 is added and reads as follows:

**§ 86.1321–86 Hydrocarbon analyzer calibration.**

The FID hydrocarbon analyzer shall receive the following initial and periodic calibration. The HFID shall be operated to a set point ±10°F (±5.5°C) between 365 and 385°F (185 and 197°C).

(a) Initial and periodic optimization of detector response. Prior to its introduction into service and at least annually thereafter the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Alternate methods yielding equivalent results may be used, if approved in advance by the Administrator.

(1) Follow the manufacturer's instructions for initial instrument start-up and basic operating adjustment using the appropriate fuel (see § 86.1314–86) and zero-grade air.

(2) Optimize on the most common operating range. Introduce into the analyzer, a propane in air mixture with a propane concentration equal to approximately 90% of the most common operating range.

(3) One of the following procedures is required for FID or HFID optimization.

(i) The procedures outlined in Society of Automotive Engineers (SAE) paper No. 770141, "Optimization of Flame Ionization Detector for Determination of Hydrocarbons in Diluted Automobile Exhaust"; author, Glenn D. Reschke.

(ii) The HFID optimization procedures outlined in 40 CFR 86, Subpart D.

(iii) Alternate procedures are allowed, if approved in advance by the Administrator.

(4) After the optimum flow rates have been determined, they are recorded for future reference.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the FID or HFID hydrocarbon analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples.

(1) Adjust analyzer to optimize performance.

(2) Zero the hydrocarbon analyzer with zero-grade air.

25. A new § 86.1322–86 is added and reads as follows:

**§ 86.1322–86 Carbon monoxide analyzer calibration.**

The NDIR carbon monoxide analyzer shall receive the following initial and periodic calibrations:

(a) Initial and periodic interference check. Prior to its introduction into service and annually thereafter the NDIR carbon monoxide analyzer shall be checked for response to water vapor and $CO_2$:

(1) Follow the manufacturer's instructions for instrument start-up and operation. Adjust the analyzer to optimize performance on the most sensitive range to be used.

(2) Zero the carbon monoxide analyzer with either zero-grade air or zero-grade nitrogen.

(3) Bubble a mixture of 3 percent $CO_2$ in $N_2$ through water at room temperature and record analyzer response.

(4) An analyzer response of more than 1 percent of full scale for ranges above 300 ppm full scale or more than 3 ppm on ranges below 300 ppm full scale will require corrective action. (Use of conditioning columns is one form of corrective action which may be taken.)

(b) Initial and periodic calibration. Prior to its introduction into service and

smoothly therefter the NDIR carbon monoxide analyzer shall be calibrated.

(1) Adjust the analyzer to optimize performance.

(2) Zero the carbon monoxide analyzer with either zero-grade air or zero-grade nitrogen.

(3) Calibrate on each used operating range with carbon monoxide in $N_2$ calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviaiton from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

(c) The initial and periodic interference, system check, and calibration test procedures specified in 40 CFR 86, Subpart D may be used in lieu of the procedures specified in this section.

26. A new § 86.1323–86 is added and reads as follows:

**§ 86.1323–86 Oxides of nitrogen analyzer calibration.**

The chemiluminescent oxides of nitrogen analyzer shall receive the following initial and periodic calibration.

(a) Prior to its introduction into service and weekly thereafter the chemiluminescent oxides of nitrgen analyzer shall be checked for $NO_2$ to NO converter efficiency. Figure N86–11 is a reference for the following steps:

(1) Follow the manufacturer's instructions for instrument start-up and operation. Adjust the analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero-grade air or zero-grade nitrogen.

(3) Connect the outlet of the $NO_x$ generator to the sample inlet of the oxides of nitrogen analyzer which has been set to the most common operating range.

(4) Introduce into the NO generator analyzer-system an NO in nitrogen ($N_2$) mixture with a NO concentration equal to approximately 80 percent of the most common operating range. The $NO_2$ content of the gas mixture shall be less than 5 percent of the NO concentration.

(5) With the oxides of nitrogen analyzer in the NO mode, record the connection of NO indicated by the analyzer.

(6) Turn on the $NO_x$ generator $O_2$ (or air) supply and adjust the $O_2$ (or air) flow rate so that the NO indicated by the analyzer is about 10 percent less than indicated in step (5). Record the concentration of NO in this $NO+O_2$ mixture.

(7) Switch the $NO_x$ generafor to the generation mode and adjust the generation rate so that the NO measured on the analyzer is 20 percent of that measured in step (5). There must be at least 10 percent unreacted NO at this point. Record the concentration of residual NO.

(8) Switch the oxides of nitrogen analyzer to the $NO_x$ mode and measure total $NO_x$. Record this value.

(9) Switch off the $NO_x$ generator but maintain gas flow through the system. The oxides of nitrogen analyzer will indicate the $NO_x$ in the $NO+O_2$ mixture. Record this value.

(10) Turn off the $NO_x$ generator $O_2$ (or air) supply. The analyzer will now indicate the $NO_x$ in the original NO in $N_2$ mixture. This value should be no more than 5 percent above the value indicated in step (4).

(11) Calculate the efficiency of the $NO_x$ converter by substituting the concentrations obtained into the following equation:

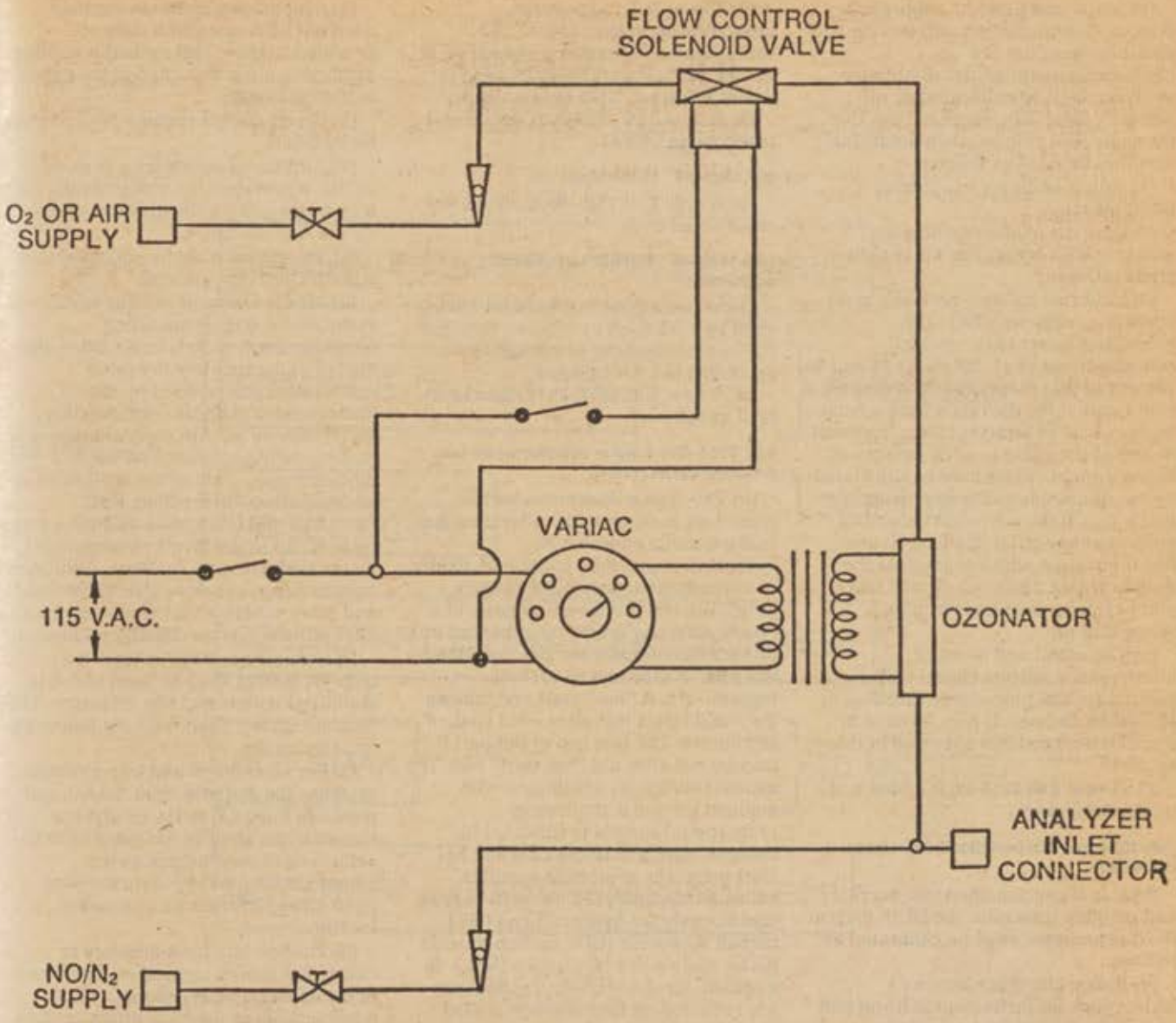
$$\text{Percent Efficiency} = [1+a-b/c-d]1\times 100$$

Where:

a = concentration obtained in step (8).
b = concentration obtained in step (9).
c = concentration obtained in step (6).
d = concentration obtained in step (7).

If converter efficiency is not greater than 90 percent corrective action will be required.

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(SEE FIG. N86-7 FOR SYMBOL LEGEND)

FIGURE N86-11 — $NO_x$ CONVERTER EFFICIENCY DETECTOR

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(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the chemiluminescent oxides of nitrogen analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples. Proceed as follows:

(1) Adjust analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero-grade air or zero-grade nitrogen.

(3) Calibrate on each normally used operating range with NO in $N_2$ calibration gases with nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

(c) The initial and periodic interferences, system check, and calibration test procedures specified in 40 CFR 86, Subpart D may be used in lieu of the procedures specified in this section.

27. A new § 86.1324–86 is added and reads as follows:

**§ 86.1324–86 Carbon dioxide analyzer calibration.**

Prior to its introduction into service and monthly thereafter the NDIR carbon dioxide analyzer shall be calibrated as follows:

(a) Follow the manufacturer's instructions for instrument start-up and operation. Adjust the analyzer to optimize performance.

(b) Zero the carbon dioxide analyzer with either zero-grade air or zero-grade nitrogen.

(c) Calibrate on each normally used operating range with carbon dioxide in $N_2$ calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent of less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

(d) The initial and periodic interferences, system check, and calibration test procedures specified in 40 CFR 86, Subpart D may be used in lieu of the procedures in this section.

28. A new § 86.1325–86 is added and reserved as follows:

**§86.1325–86 [Reserved]**

29. A new § 86.1326–86 is added and reads as follows:

**§ 86.1326–86 Calibration of other equipment.**

Other test equipment used for testing shall be calibrated as often as required by the manufacturer or necessary according to good practice.

30. A new § 86.1327–86 is added and read as follows:

**§ 86.1327–86 Engine dynamometer test procedures; overview.**

(a) The engine dynamometer test procedure is designed to determine the brake-specific emission of hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate (diesels only). The test procedure consists of a "cold" start test following either natural or forced cool-down periods described in §§ 86.1334–86 and 86.1335–86, respectively. A "hot" start test follows the "cold" start test after a hot soak of 20 minutes. The idle test of Subpart P may be run after the "hot start" test. The exhaust emissions are diluted with ambient air and a continuous proportional sample is collected for analysis during both the cold and hot start tests. The composite samples collected are analyzed either in bags or continuously for hydrocarbons (HC), carbon monoxide (CO), carbon dioxide ($CO_2$), and oxides of nitrogen ($NO_x$). In addition, for diesels only, particulates are collected on fluorocarbon coated glass fiber filters or fluorocarbon based (membrane) filters and the dilution air is prefiltered.

(b) Engine torque and rpm shall be recorded continuously during both the cold and hot start tests. Data points shall be recorded at least once every second.

(c) Using the torque and rpm feedback signals the brake horsepower is integrated with respect to time for the cold and hot cycles. This produces a brake horsepower-hour value that enables the brake-specific emissions to be determined (see § 86.1344–86, Calculations; exhaust emissions).

(d)(1) When an engine is tested for exhaust emissions or is operated for service accumulation on an engine dynamometer, the complete engine shall be tested, with all emission control devices installed and functioning.

(2) Evaporative emission controls need not be connected if data are provided to show that normal operating conditions are maintained in the engine induction system.

(3) On air cooled engines, the fan shall be installed.

(4) Additional accessories (e.g., oil cooler, alternators, air compressors, etc.) may be installed with advance approval by the Administrator.

(5) The engine must be equipped with a production type starter.

(e) Means of engine cooling which will maintain the engine operating temperatures (e.g., intake air, oil, water, etc.) at approximately the same temperature as specified by the manufacturer shall be used. Auxiliary fan(s) may be used to maintain engine cooling during operation on the dynamometer. Only water is allowed as an engine-coolant medium. Rust inhibitors and lubrication additives may be used, up to the levels recommended by the additive manufacturer. Antifreeze mixtures (e.g., ethylene glycol, alcohols) and other coolants that would enhance heat transfer are specifically prohibited.

(f) *Exhaust system.* A chasis-type exhaust system shall be used which is stabilized with respect to emissions. The exhaust system shall meet the following requirements:

(1) For all catalyst and trap-oxidizer systems, the distance from the exhaust manifold flange(s) to the catalyst or trap-oxidizer shall be the same as in the vehicle configuration unless the manufacturer provides data showing equivalent performance at another location.

(2) The exhaust back pressure or restriction shall be typical of those seen in the actual vehicle exhaust system configuration or the back pressure shall be the manufacturer's recommended maximum exhaust back pressure limit.

(3) For all diesel engines, the distance from the exhaust manifold flange to the exit of the chassis-type exhaust system shall be a maximum of 12 feet.

31. a new § 86.1328–86 is added and reserved as follows:

**§ 86.1328–86 [Reserved]**

32. A new § 86.1329–86 is added and reserved as follows:

**§ 86.1329–86 [Reserved]**

33. A new § 86.1330–86 is added as reads as follows:

**§ 86.1330–86 Test sequence, general requirements.**

(a) The test sequence shown in Figure N86–12 shows the major steps encountered as the test engine undergoes the procedures subsequently described.

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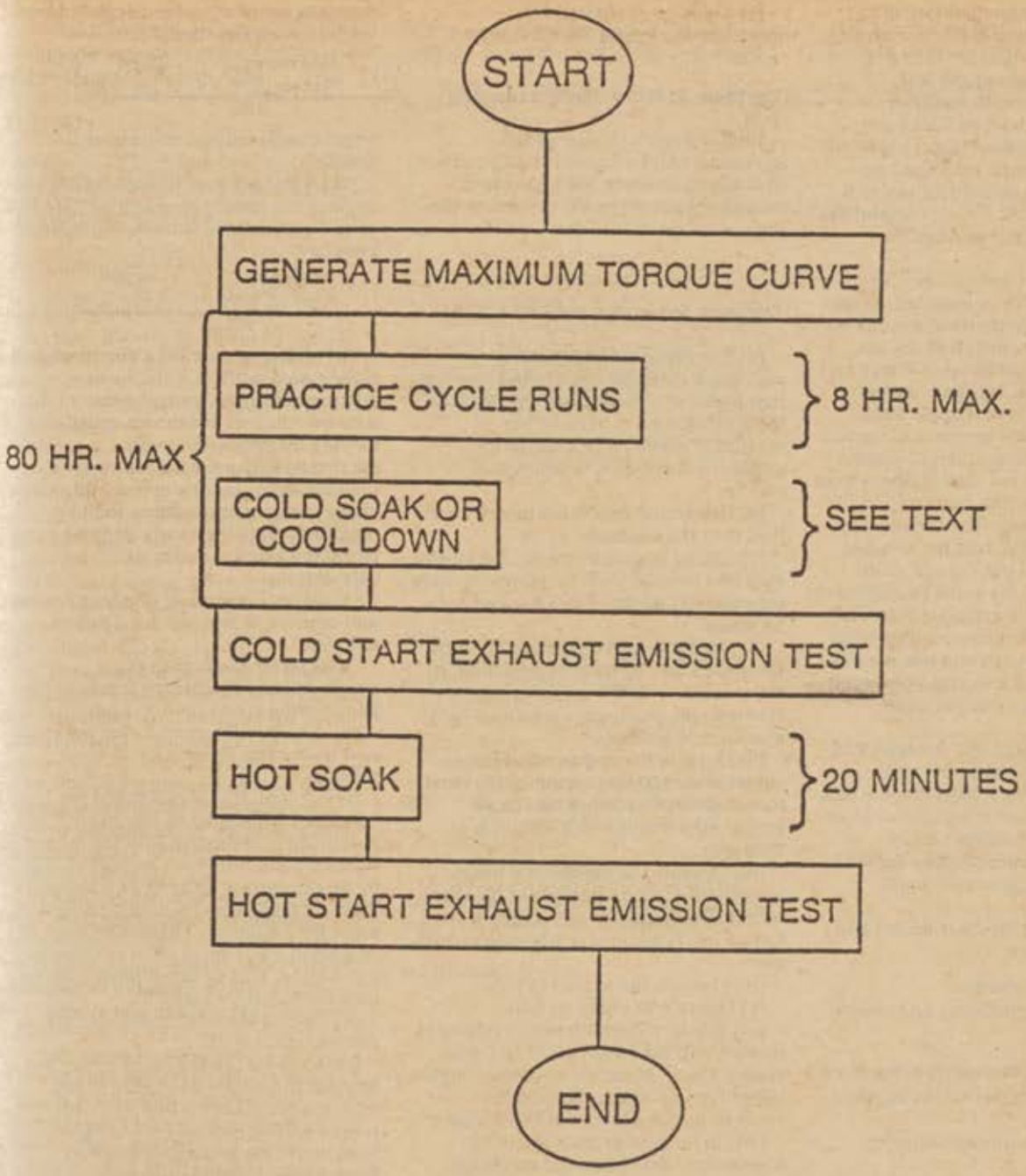



FIGURE N86-12 — TEST SEQUENCE

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(b) The average temperature of the engine intake air and CVS dilution air shall be maintained at 25° C ± 5° C (77°F ± 9° F) throughout the test sequence. Engines with auxiliary emission control devices which are temperature dependent (e.g., chokes, air cleaner, hot air doors, etc.) shall be tested at an average ambient test cell temperature 25° C ± 5°C throughout the test sequence, except as noted in § 86.1335–86.

(c) No control of ambient or CVS dilution air humidity is required. Engine intake air humidity shall not exceed 90 grains of water per pound of dry air.

(d) The idle test of Subpart P may be run after completion of the hot start exhaust emission test, if applicable.

(e) The barometric pressure observed during the generation of the maximum torque curve shall not deviate more than 1 in. Hg from the value measured at the beginning of the map. The barometric pressure observed during the exhaust emission test shall not deviate more than 1 in. Hg from the value measured at the beginning of the emission test. The average barometric pressure observed during the exhaust mission test must be within 1 in. Hg of the average observed during the maximum torque curve generation.

(f) *Diesel Engines only.* Air inlet and exhaust restrictions shall be set to represent the average restrictions which would be seen in use in a represenative application. Inlet depression and exhaust backpressure shall be set with the engine operating at maximum horsepower.

34. A new § 86.1331–86 is added and reserved as follows:

**§ 86.1331–86 [Reserved]**

35. A new § 86.1332–86 is added and reads as follows:

**§ 86.1332–86 Engine mapping procedures.**

(a) Mount test engine on the engine dynamometer.

(b) Determine minimum mapping speed.

(1) *Gasoline-fueled engines.* The minimum mapping speed shall be calculated from the following equations:

(i) Minimum Speed = Curb Idle RPM — 200 RPM; or

(ii) Minimum Speed = 400 RPM, whichever is greater.

(2) *Diesel-engines.* The minimum mapping speed shall be calculated from the following equations:

(i) Minimum Speed = Low Idle RPM — 200 RPM; or

(ii) Minimum Speed = 400 RPM, whichever is greater.

(c) Determine maximum mapping speed.

(1) *Gasoline-fueled.* (i) For ungoverned engines the maximum

$$\text{Maximum Speed} = \text{Curb Idle RPM} +$$

(ii) For governed engines the maximum mapped speed shall be either that speed at which the wide open throttle torque drops off to zero, or the maximum speed as calculated for

$$\text{Maximum Speed} = \text{Curb Idle RPM} +$$

(ii) For governed engines the maximum mapping speed shall be either that speed at which wide open throttle torque drops off to zero, or the maximum speed as calculated for ungoverned engines, whichever is smaller.

(d) Determine maximum torque curve (i.e., map the engine).

(1) During engine warm-up, the engine may be operated such that a preliminary estimate of measured rated speed can be made.

(2) *Gasoline-fueled engines.* (i) Start the engine and operate at zero load in accordance with the manufacturer's start-up and warm-up procedures for 1 minute ±30 seconds.

(ii) Operate the engine at a torque equivalent to 10±3 percent of the most recent determination of maximum torque for 4 minutes ±30 seconds at 2000 rpm.

(iii) Operate the engine at a torque equivalent to 55±5 percent of the most recent determination of maximum torque for 35 minutes ±1 minute at 2000 rpm.

(iv) Operate the engine at idle.

(v) Operate the throttle fully.

(vi) While still maintaining wide-open throttle and full-load obtain minimum engine speed. Maintain minimum engine speed for 15 seconds. Record the average torque during the last 5 seconds.

(vii) In no greater than 100 RPM increments, determine the maximum torque curve from minimum speed to maximum speed. Hold each test point for 15 seconds and record the average torque over the last 5 seconds.

(viii) *Alternate mapping technique.* In place of (d)(2)(vi) and (vii) above, a continual sweep of RPM is allowed. While operating at wide open throttle, the engine speed is increased at a constant 8 RPM/second (±1 RPM/second) from minimum speed to maximum speed. Speed and torque points shall be recorded at a sample rate of at least one point per second.

(ix) Recalculate minimum and maximum speeds per (b)(1) and (c)(1)(i) mapping speed shall be calculated from the following equations:

$$115\left(\frac{\text{Measured Rated RPM} - \text{Curb Idle RPM}}{100}\right)$$

ungoverned engines, whichever is smaller.

(2) *Diesel-engines.* (i) For ungoverned engines the maximum mapping speed shall be calculated from the following equation:

$$113\left(\frac{\text{Measured Rated RPM} - \text{Curb Idle RPM}}{100}\right)$$

or (ii) of this section using the measured rated speed derived from the new maximum torque curve. If either of the new minimum or maximum speeds lay outside the range of speeds encompassed by the actual map, then the map shall be considered void. The entire mapping procedures shall be repeated, using the newly derived measured rated speed in all calculations.

(3) *Diesel engines.* (i) Start the engine and operate at free idle for 2 to 3 minutes.

(ii) Operate the engine at approximately 50 percent power at the peak torque speed for 5 to 7 minutes.

(iii) Operate the engine at rated speed and wide open throttle for 25 to 30 minutes.

(iv) *Option.* It is permitted to pre-condition the engine at rated speed and maximum horsepower until the oil and water temperatures are stabilized. The temperatures are defined as stabilized if they are maintained within 2 percent of point for 2 minutes. The engine must be opertated a minimum of 10 minutes for this option. This optional procedure may be substituted for step (iii).

(v) Unload the engine and operate at the low idle speed.

(iv) Operate the engine at wide open throttle and minimum engine speed. Increase the engine speed at a constant rate of 8 RPM/second (±1 RPM/second) from minimum to maximum speed. Engine speed and torque points shall be recorded at a sample rate of at least one point per second.

(vii) Recalculate minimum and maximum speeds per (b)(2) and (c)(2)(i) or (ii) of this section using the measured rated speed derived from the new maximum torque curve. If either of the new minimum or maximum speeds lay outside the range of speeds encompassed by the actual map, then the map shall be considered viod. The entire mapping procedure shall be repeated, using the newly derived measured rated speed in all calculations.

(e) Mapping curve generation.

(1) *Gasoline-fueled engines.* (i) Fit all data points recorded under (d)(2)(vi) and (vii) of this section (100 RPM increments) with a cubic spline technique.

(ii) All points generated under the continuous RPM sweep by step (d)(2)(vi) and (viii) shall be connected by linear interpolation between points.

(iii) For governed engines, all points above the maximum speed (see (c)(1)(ii) of this section) shall be assigned maximum torque values of zero for purposes of cycle generation.

(iv) For all engines, all speed points below 400 RPM shall be assigned a maximum torque value equal to that observed at 400 RPM for purposes of cycle generation.

(v) The torque curve resulting from step (i) through (iv) is the mapping curve and will be used to convert the normalized torque values in the engine cycle (see Appendix I, f) to actual torque values for the test cycle.

(2) *Diesel-engines.* (i) Connect all data points recorded under (d)(3) (vi) and (vii) of this section using linear interpolation between points.

(ii) For governed engines, all points above the maximum speed (see (c)(2)(ii) of this section) shall be assigned maximum torque values of zero for purposes of cycle generation.

(iii) For all engines, all speed points below 400 RPM shall be assigned a maximum torque value equal to that observed at 400 RPM for purposes of cycle generation.

(iv) The torque curve resulting from steps (i) through (iii) is the mapping curve and will be used to convert the normalized torque values in the engine cycle (see Appendix I, g) into actual torque values for the test cycle.

(f) *Alternate mapping and mapping curve generation techniques.* If a manufacturer believes that the above mapping techniques are unsafe or unrepresentative for any given engine or engine family, alternate mapping techniques may be used. Alternate techniques may be used only if approved in advance by the Administrator, and only if the Administrator judges that change to be justified, and the alternate procedure to be technically correct.

36. A new § 86.1333–86 is added and reads as follows:

**§ 86.1333–86 Transient test cycle generation.**

(a) The heavy-duty transient engine cycles for gasoline- and diesel-fueled engines are listed in Appendix I (f and g). These second-by-second listings are designed to represent transient torque and RPM maneuvers characteristic of heavy-duty vehicles. Both RPM and torque are normalized in these listings.

(1) To unnormalize RPM use the following equation:

$$\text{Actual RPM} = \frac{\%\text{RPM}(\text{Measured Rated RPM} - \text{Curb Idle RPM})}{100} + \text{Curb Idle RPM}$$

(Curb idle for diesel engines is defined as the low idle RPM.)

(2) Torque is normalized to the maximum torque at the RPM listed with it. Therefore, to unnormalize the torque values in the cycle, the maximum torque curve for the engine in question must be used. The generation of the maximum torque curve is described in § 86.1332.86.

(b) *Example of the unnormalization procedure.* The following test point shall be unnormalized:

| Percent RPM | Percent torque |
|---|---|
| 43 | 82 |

The test engines have these values:

Measured Rated RPM = 3800 (Does not appear on given torque curve.)

Curb Idle RPM = 600.

Maximum torque curve as illustrated in Figure N86–13.

*Calculate actual RPM:*

Actual RPM = percent RPM (Measured Rated RPM–Idle RPM)/100 + Idle RPM

Actual RPM = 43(3800–600)/100 + 600

Actual RPM = 1976

*Determine actual torque:*

Determine the maximum torque at 1976 RPM from Figure N86–13. Then multiply this value (358 ft-lb) by 0.82. This results in an actual torque of 294 ft-lbs.

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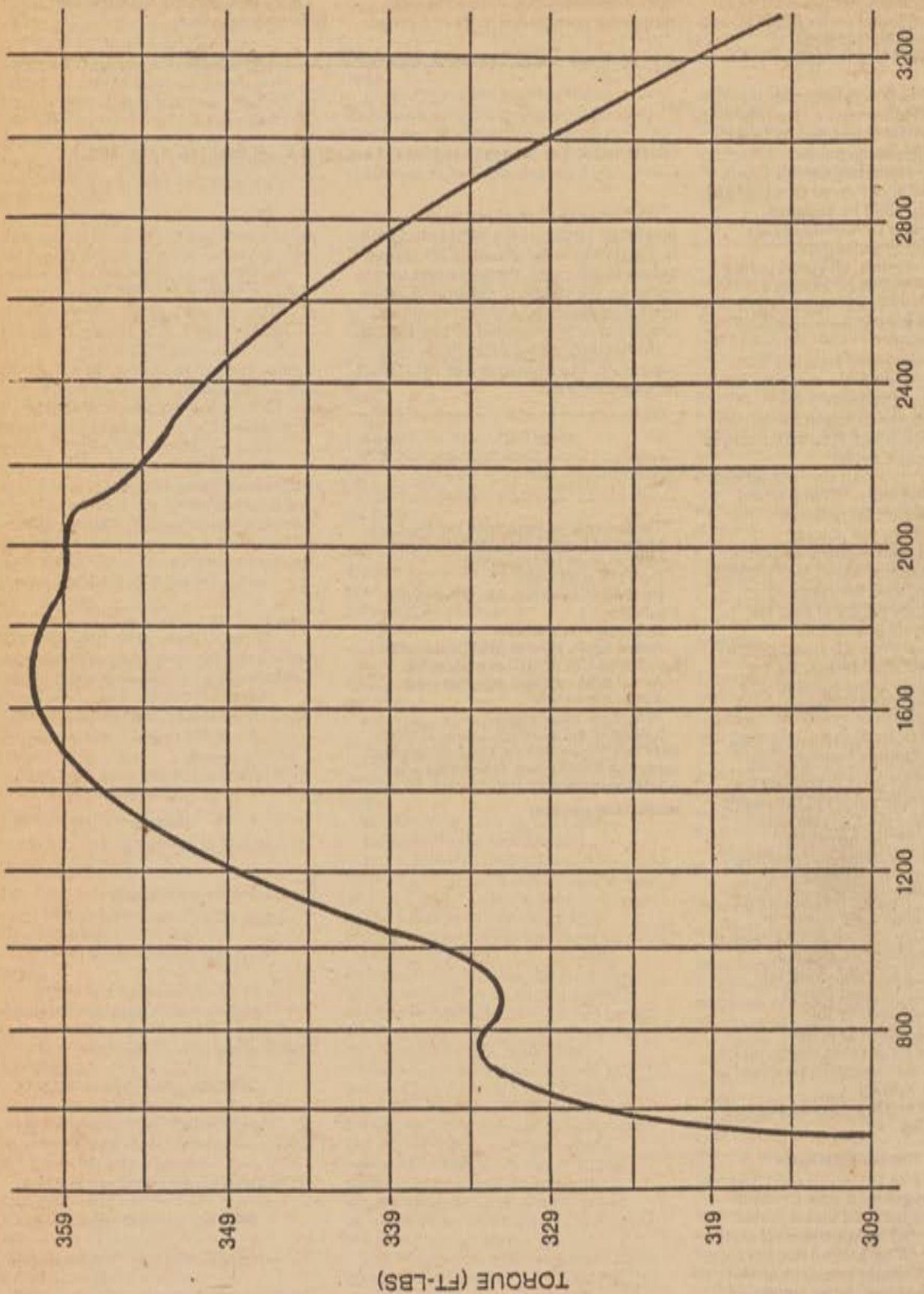



FIGURE N86-13— SAMPLE MAXIMUM TORQUE CURVE FOR A GASOLINE-FUELED ENGINE.

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(c) Engine speed and torque shall be recorded at least once every second during the cold start test and hot start test. The torque and RPM feedback signals may be electrically filtered.

(d) *Gasoline-fueled engines.* The zero percent speed specified in the gasoline-fueled engine cycle (Appendix I (f)) shall be superceded by proper operation of the engines automatic choke.

(1) During automatic choke operation a manual transmission engine shall be allowed to idle at whatever speed is required to produce a feedback torque of 0 ft-lbs ± 10 ft-lbs (using for example clutch disengagement, speed to torque control switching, software overrides, etc.) at those points in Appendix I where both reference speed and reference torque are zero percent values.

(2) During automatic choke operation an automatic transmission engine shall be allowed to idle at whatever speed is required to produce a feedback torque of CITT ft-lbs ± 10 ft-lbs (see (e)(2) of this section for definition of CITT) at those points in Appendix I where both reference speed and reference torque are zero percent values.

(3) This automatic choke high idle allowance is permitted only for the first 150 seconds of the cold cycle and the first 30 seconds of the hot cycle, after which the cycles shall be run as specified in Appendix I (f). (See 86.1341–86 for allowances in the cycle validation criteria.)

(e) *Automatic Transmissions.* The reference cycles Appendix I (f and g) shall be altered for engines intended for use with automatic transmissions.

(1) Zero percent speed for automatic transmission engines is defined as curb idle RPM, i.e., in-vehicle, coupled with automatic transmission in gear.

(2) All zero-percent speed, zero-percent torque points (idle points) shall be modified to zero percent speed, x percent torque. Using the manufacturers' specified curb idle transmission torque (CITT), the maximum torque available at the curb idle (i.e., with transmission) RPM as determined from the maximum torque curve generated in § 86.1332–86, x percent torque is defined per the following equation:

$$x\ \% = \frac{\text{CITT} \times 100}{\text{Maximum Torque at Curb Idle RPM}}$$

37. A new § 86.1334–86 is added and reads as follows:

**§ 86.1334–86 Pre-test engine and dynamometer preparation.**

*Control system calibration.* (a) Before the cold soak or cool down, final calibration of the dynamometer and throttle control systems may be performed. These calibrations may consist of steady-state operation and/or actual practice cycle runs, but emissions may not be measured.

(b) Following any practice runs or calibration procedures, the engine shall be turned off and allowed to either cold soak at 60° to 86°F for a minimum of 12 hours, or be cooled per § 86.1335–86.

38. A new § 86.1335–86 is added and reads as follows:

**§ 86.1335–86 Optional forced cool-down procedure.**

(a) This forced cool-down procedure applies to both gasoline and diesel-fueled engines.

(b) No substances or fluids may be applied to the engines internal or external surfaces except for water and air, and only as prescribed in (c) and (d) of this section.

(c) For water-cooled engines two types of cooling are permitted.

(1) Water may be circulated through the engine's water coolant system.

(i) The cooling water may be flowed in either direction and at any desired flow rate. The thermostat may be removed or blocked open during the cool down but must be restored before the exhaust emissions test begins.

(ii) The temperature of the circulated or injected water shall be between 10° C (50° F) and 30° C (86° F).

(iii) No fluid except water and no fluid or substance in solution with water is permitted. This does not preclude the use of a building's standard water supply for forced cool-down purposes.

(2) Flows of air may be directed at the exterior of the engine.

(i) Air shall be directed uniformly over the entire exterior surface of the engine at any desired flow rate.

(ii) The temperature of the cooling air shall not exceed 30° C (86° F). This is the only occasion when test cell ambient air temperature may deviate from the general specifications set forth in § 86.1330–86(b), i.e., may be less than 20° C (68° F).

(d) For air-cooled engines only cooling as prescribed in (c)(2) of this section is permitted.

(e) The cold cycle exhaust emission test may begin after a forced cool down only when the engine oil temperature as measured at the dipstick is between 20° C and 24° C (68° F and 75° F). No engine oil change is permitted during the test sequence, nor is any direct or indirect cooling of engine oil permitted except by natural conduction and convection associated with the procedures in (c) and (d) of this section.

(f)(1) The cold cycle exhaust emission test for gasoline engines equipped with catalytic converters may begin after a forced cool down only when the catalyst bed trempearture at the catalyst outlet is 25° C±5° C (77° F±9° F), in addition to the temperature restriction in (e) of this section.

(2) Catalyst cool down may be accomplished in whatever manner and using whatever coolant deemed appropriate by proper engineering judgment. The catalyst, engine, and exhaust piping configurations shall not be separated, altered, or moved in any way during the cool down.

(g) At the completion of the forced cool down, all general requirements specified in § 86.1330–86 and the oil temperature specification set forth in (e) of this section must be met before the cold cycle exhaust emission test may begin.

39. A new § 86.1336–86 is added and reads as follows:

**§ 86.1336–86 Engine starting and restarting.**

(a) *Gasoline-fueled engines.* This paragraph applies to gasoline-fueled engines only.

(1) The engine shall be started with a production engine starter motor according to the manufacturer's recommended starting procedures in the owner's manual. The 24±1 second free idle period shall begin when the engine starts.

(2) *Choke operation:* (i) Engines equipped with automatic chokes shall be operated according to the manufacturer's operating instructions in the owner's manual, including choke setting and "kick-down" from cold fast idle.

(ii) Engines equipped with manual chokes shall be operated according to the manufacturer's operating instructions in the owner's manual.

(3) The operator may use the choke, throttle, etc. where necessary to keep the engine running.

(4) If the manufacturer's operating instructions in the owner's manual do not specify a warm engine starting procedure, the engine (automatic- and manual-choke engines) shall be started by depressing the throttle half way and cranking the engine until it starts.

(b) *Diesel engines.* The engine shall be started with a production engine starting-motor according to the manufacturer's recommended starting procedures in the owner's manual. The 24±1 second free idle period shall begin when the engine starts.

(c)(1) If the engine does not start after 15 seconds of cranking, cranking shall cease and the reason for failure to start

shall be determined. The gas flow measuring device (or revolution counter) on the constant volume sampler (and the hydrocarbon integrator and particulate sample pump(s) when testing diesel vehicles, see § 86.1337, Engine dynamometer test run) shall be turned off during this diagnostic period. In addition, either the CVS should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the engine shall be rescheduled for testing from a cold start.

(2) If longer cranking times are recommended to the ultimate purchaser, such cranking times may be used provided the owner's manual and the service repair manual indicate the longer cranking times are normal, and if the use of the longer cranking times is approved in advance by the Administrator.

(3) If a failure to start occurs during the cold portion of the test and is caused by an engine malfunction, corrective action of less than 30 minutes duration may be taken (according to § 86.084–25), and the test continued. The sampling system shall be reactivated at the same time cranking begins. When the engine starts, the timing sequence shall begin. If failure to start is caused by engine malfunction and the engine cannot be started, the test shall be voided and corrective action may be taken according to § 86.084–25. The reasons for the malfunction (if determined) and the corrective action taken shall be reported to the Administrator.

(4) If a failure to start occurs during the hot start portion of the test and is caused by engine malfunction, the engine must be started within one minute of key on. The sampling system shall be reactivated at the same time cranking begins. When the engine starts, the transient engine cycle timing sequence shall begin. If the engine cannot be started within one minute of key on, the test shall be voided, corrective action taken, (according to § 86.084–25), and the engine rescheduled for testing. The reason for the malfunction (if determined) and the corrective action taken shall be reported to the Administrator.

(d) If the engine "false starts," the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(e) *Engine stalling.* (1) If the engine stalls during the initial idle period of either the cold or hot start test, the engine shall be restarted immediately using the appropriate cold or hot starting procedure and the test continued. If the engine cannot be started before the first non-idle record of the cycle, the test shall be voided.

(2) If the engine stalls anywhere in the cold cycle, except in the initial idle period, the test shall be voided.

(3) If the engine stalls on the hot cycle portion of the test at any time up to and including 580 seconds into the hot cycle, the engine may be shut off and resoaked for 20 minutes. The hot cycle may then be rerun. Any stalling of the engine or voiding of the hot cycle more than 580 seconds into the hot cycle shall result in a void test. Only one hot start resoak and restart is permitted.

40. A new § 86.1337–86 is added and reads as follows:

**§ 86.1337–86 Engine dynamometer test run.**

(a) The following steps shall be taken for each test:

(1) Prepare the engine, dynamometer, and sampling system for the cold start tests. Change filters, etc. and leak check as necessary.

(2) Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(3) Start the CVS (if not already on), the sample pumps, except the diesel particulate sample pump(s), if applicable, the temperature recorder, the engine cooling fan(s) and any data collection system (i.e., chart recorders, computers, data loggers, etc.). The heat exchanger of the constant volume sampler (if used), and the heated components of any continuous sampling system(s) (if applicable) shall be preheated to their respective operating temperatures before the test begins. See § 86.1304–86(e) for continuous sampling procedures.

(4) Adjust the sample flow rates to the desired flow rate and set the CVS gas flow measuring devices to zero.

Note.—CFV–CVS sample flow rate is fixed by the venturi design.

(5) Attach the CVS flexible exhaust tube to engine tailpipe(s).

(6) Carefully install a clean particulate sample filter into each of the filter holders for diesel tests. The filters must be handled with forceps or tongs. Rough or abrasive filter handling will result in erroneous weight determination.

(7) Follow the manufacturer's choke and throttle instructions for cold starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For diesel engines, turn on the hydrocarbon, continuous $NO_x$, CO, or $CO_2$ (if used) analyzer(s) system integrator(s) and turn on the particulate sample pumps and indicate the start of the test on the data collection medium (i.e., mark the chart on a chart recorder, set a byte on a computer or data logger, etc.).

(8) As soon as it is determined that the engine is started, start a "free idle" timer.

(9) Allow the engine to idle freely with no-load for 24±1 seconds. This idle period for automatic transmission engines may be interpreted as an idle speed in neutral or park. All other idle conditions shall be interpreted as an idle speed in gear. It is permissible to lug the engine down to curb idle speed during the last 8 seconds of the free idle period for the purpose of engaging dynamometer control loops.

(10) Begin the transient engine cycles such that the first non-idle record of the cycle occurs at 25±1 seconds. The free idle time is included in the 25±1 seconds.

Note.—During diesel testing, adjust the sample pump(s) so that the flow rate through the particulate sample probe or transfer tube is maintained at a constant value within ±5 percent of the set flow rate. Record the average temperature and pressure at the gas meter(s) or flow instrumentation inlet. If the set flow rate cannot be maintained because of high particulate loading on the filter, the test shall be terminated. The test shall be rerun using lower flow rate and/or a larger diameter filter.

(11) On the last record of the cycle cease sampling, immediately turn the engine off, and start a hot soak timer. For diesel engines immediately after the engine stops running, simultaneously turn off the gas flow measuring device(s) and the diesel hydrocarbon integrator, mark the hydrocarbon recorder chart, and turn off the particulate sample pump(s).

(12) Immediately after the engine is turned off, turn off the engine cooling fan(s) if used, and the CVS blower. As soon as possible transfer the "cold start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 83.1340–86 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test. For diesel engines carefully remove each particulate sample filter from its holder and place each in a petri dish, and cover.

(13) Allow the engine to soak for 20 ± 1 minutes.

(14) Prepare the engine and dynamometer for the hot start test.

(15) Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(16) Start the CVS (if not already on), the sample pumps (except the diesel particulate sample pump(s), if applicable), the temperature recorder,

the engine cooling fan(s) and any data collection system (i.e., chart recorders, computers, data loggers, etc.). The heat exchanger of the constant volume sampler (if used) and the heated components of any continuous sampling system(s) (if applicable) shall be preheated to their respective operating temperatures before the test begins. See § 86.1340–86(e) for continuous sampling procedures.

(17) Adjust the sample flow rates to the desired flow rate and set the CVS gas flow measuring devices to zero.

Note.—CFV–CVS sample flow rate is fixed by the venturi design.

(18) Carefully install a clean particulate filter into each of the filter holders for diesel tests. The filters must be handled only with forceps or tongs. Rough or abrasive filter handling will result in erroneous weight determination.

(19) Follow the manufacturer's choke and throttle instruction for hot starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For diesel engines, turn on the hydrocarbon analyzer system integrator, mark the recorder chart, and turn on the particulate sample pump(s).

(20) As soon as it is determined that the engine is started, start a "free idle" timer.

(21) Allow the engine to idle freely with no-load for 24 ± 1 seconds. The provisions and interpretations of step (a)(8) of this section apply.

(22) Begin the transient engine cycle such that the first non-idle record of the cycle occurs at 25 ± 1 seconds. The free idle is included in the 25 ± 1 seconds.

(23) On the last record of the cycle cease sampling. For diesel engines, simultaneously turn off gas flow measuring device(s) and the diesel hydrocarbon integrator, mark the hydrocarbon recorder chart, and turn off the particulate sample pump(s).

(24) As soon as possible transfer the "hot start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 86.1340–86 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(25) For diesel engines, carefully remove each particulate sample filter from its holder and place each in a clean petri dish and cover as soon as possible. Within one hour after the end of the hot start phase of the test, transfer the four particulate filters to the weighing chamber for post-test conditioning.

(26) The CVS and the engine may be turned off, if desired.

(b) The procedure in paragraph (a) of this section is designed for one sample bag for the cold start portion and one for the hot start portion. It is permissible to use 4 sample bag per test portion. The bags shall sample for the portion of the cycle as indicated below:

| Bag No. | Sample time | |
|---|---|---|
| | Gasoline-fueled | Diesel |
| 1 | 272 | 297 |
| 2 | 579 | 597 |
| 3 | 895 | 902 |
| 4 | 1167 | 1199 |

41. A new § 86.1338–86 is added and reads as follows:

**§ 86.1338–86 Emission measurement accuracy.**

(a) Measurement accuracy for analysis systems used for bag measurements.

(1) Good engineering practice would dictate that analyzer readings below 15 percent of full scale chart deflection should generally not be used.

(2) Some high resolution read-out systems such as computers, data loggers, etc., can provide sufficient accuracy and resolution below 15 percent of full scale. Such systems may be used provided that additional calibration bottles are added to insure that the calibration curves below 15 percent of full scale, in the region of the sample measurements, conforms to the accuracy specifications in § 86.1316–86 through § 86.1326–86.

(b) Measurement accuracy for analysis systems used for continuous measurement systems.

(1) Analyzers used for continuous analysis must be operated such that the integrated concentration value over the test cycle falls between 15 and 100 percent of full scale chart deflection. Exceptions to these limits are:

(i) The analyzer's response may be less than 15 percent or more than 100 percent of full scale if automatic range change circuitry is used and the limits for range changes are between 15 and 100 percent of full-scale chart deflection;

(ii) The analyzer's response may be less than 15 percent of full scale if:

(A) Alternative (a)(2) of this section is used to insure that the accuracy of the calibration curve is maintained below 15 percent; or

(B) The full-scale value is 155 ppmC or less; or

(C) The emissions from the engine are erratic and the integrated chart deflection value is greater than 15 percent of full scale; or

(D) The contribution of all data read below the 15 percent level is less than 10 percent by mass of the final test results.

(iii) During engine start-up the HC analyzer is allowed to "spike" off-scale for a maximum of 5 seconds.

42. A new § 86.1339–86 is added and reads as follows:

**§ 86.1339–86 Diesel particulate filter handling and weighing.**

(a) At least 1 hour, but not more than 80 hours before the test, place each filter in an open, but protected, petri dish and place in the weighing chamber which meets the humidity and temperature specifications of § 86.1312–86.

(b) At the end of the 1 to 80 hour stabilization period, weigh the filter on a balance having a precision of one microgram. Record this weight. This reading is the tare weight.

(c) The filter shall then be stored in a covered petri dish which shall remain in the weighing chamber until needed for testing.

(d) If the filter is not used within one hour of its removal from the weighing chamber, it shall be re-weighed.

(e) After the test, and after the sample filter is returned to the weighing room, condition it for at least 1 hour but not more than 80 hours. Then weigh a second time. This latter reading is the gross weight of the filter. Record this weight.

(f) The net weight ($M_{sf}$) is the gross weight minus the tare weight.

Note.—Should the sample on the filter contact the petri dish or any other surface, the test is void and must be re-run.

43. A new § 86.1340–86 is added and reads as follows:

**§ 86.1340–86 Exhaust sample analysis.**

(a) The analyzer response may be read by automatic data collection (ADC) equipment such as computers, data loggers, etc. If ADC equipment is used the following is required.

(1) For bag analysis the analyzer response must be stable at greater than 99 percent of final reading. A single value representing the average chart deflection over a 10 second stablized period may be stored.

(2) For continuous analysis systems, the ADC system must store at least 5 chart deflection readings per second.

(3) The chart deflections in (a) (1) and (2) of this section may be stored on long term computer storage devices such as computer tapes, storage discs, punch cards, or they may be printed in a listing for storage. In either case a chart recorder is not required and records from a chart recorder, if they exist, need not be stored.

(4) If the data from ADC equipment is used as permanent records, the ADC equipment and the analyzer values as interpreted by the ADC equipment are subject to the calibration specifications in §§ 86.1316–86 through 86.1326–86, as if the ADC equipment were part of the analyzer.

(b) Data records from any one or a combination of analyzers may be stored as chart recorder records.

(c) *Software zero and span.* (1) The use of "software" zero and span is permitted. The process of software zero and span refers to the technique of initially adjusting the analyzer zero and span responses to the calibration curve values, but for subsequent zero and span checks the analyzer response is simply recorded without adjusting the analyzer gain. The observed analyzer response recorded from the subsequent check is mathematically corrected back to the calibration curve values for zero and span. The same mathematical correction is then applied to the analyzer's response to a sample of exhaust gas in order to compute the true sample concentration.

(2) The maximum amount of software zero and span mathematical correction is ±10 percent of full scale chart deflection.

(3) Software zero and span may be used to switch between ranges without adjusting the gain of the analyzer.

(4) The software zero and span technique may not be used to mask analyzer drift. The observed chart deflection before and after a given time period or event shall be used for computing the drift. Software zero and span may be used after the drift has been computed to mathematically adjust any span drift so that the "after" span check may be transformed into the "before" span check for the next segment.

(d) For bag sample analysis perform the following sequence:

(1) Warm-up and stabilize the analyzers.

(2) Clean and/or replace filter elements, conditioning columns (if used), etc., as necessary.

(3) The order of steps (1) and (2) may be interchanged.

(4) Obtain a stable zero reading.

(5) Zero and span the analyzers with zero and span gases. The span gases shall have concentrations between 75 and 100 percent of full scale chart deflection. The flow rates and system pressures during spanning shall be approximately the same as those encountered during sampling.

(6) Re-check zero response, repeat paragraphs (d)(4) and (d)(5) of this section or use software zero and span if necessary.

(7) If a chart recorder is used, identify the most recent zero and span response as the pre-analysis values.

(8) If ADC equipment is used, electronically record the most recent zero and span response as the pre-analysis values.

(9) Measure HC (except diesels), CO, $CO_2$, and $NO_x$ concentrations in the sample bag(s) with approximately the same flow rates and pressures used in paragraph (d)(5) of this section. Constituents measured continuously do not require bag analysis.

(10) Rechecking of the zero and span point after the analysis of the bag is permitted. The number of bags that may be analyzed after pre-analysis values for zero and span have been determined is not specified. The limiting criteria on the time span or the number of events that may occur between the pre-analysis and post-analysis zero span checks are the following:

(i) A pre-analysis zero and span value for each range of each constituent to be analyzed must be determined and identified or recorded prior to analyzing the bag. The bag may be sampled in order to identify the specific range required prior to the determination of the pre-analysis values.

(ii) A post-analysis zero and span check for each range used must be performed and the values recorded. The time interval or the number of events that may occur between the pre and post checks is not specified. However, the difference between pre-analysis zero and span values (recorded in step (7) and (8)) versus those recorded for the post-analysis check may not exceed the zero drift limit or the span drift limit of 2 percent of full scale chart deflection for any range used.

(iii) The time span between the pre and post checks may be no longer than the time period that was used to evaluate the analyzer drift performance.

(11) Analyze the remaining sample and background bags as outlined in steps (4) through (10).

(e) For continuous sample analysis perform the following sequences:

(1) Warm-up and stabilize the analyzers.

(2) Clean and/or replace filter elements, conditioning columns (if used) etc., as necessary.

(3) The order of steps (1) and (2) may be interchanged.

(4) Leak check portions of the sampling system that operate under a vacuum when sampling.

(5) Allow heated sample lines, filters, pumps, etc., to stabilize at operating temperature.

(6) The order of steps (4) and (5) may be interchanged.

(7) Obtain a stable zero reading.

(8) Zero and span each range to be used on each analyzer used prior to the beginning of the cold cycle. The span gases shall have a concentration between 75 and 100 percent of full scale chart deflection. The flow rates and system pressures shall be approximately the same as those encountered during sampling.

(9) Re-check zero response, repeat steps (7) and (8) or use software zero and span if necessary.

(10) If a chart recorder is used, identify the most recent zero and span response as the pre-analysis values.

(11) If ADC equipment is used, electronically, record the most recent zero and span response as the pre-analysis values.

(12) Measure the emissions (HC required for diesels, $NO_x$, CO, $CO_2$ optional) continuously during the cold start cycle. Indicate the start of the test, the range(s) used, and the end of the test on the recording medium (chart paper or ADC equipment). Use approximately the same flow rates and system pressures used in step (8).

(13) Collect background HC, CO, $CO_2$, and $NO_x$ in a sample bag.

(14) Perform a post-analysis zero and span check for each range at the conditions specified in step (8).

(15) Neither the zero drift nor the span drift between the pre-analysis and post-analysis checks on any range used may exceed 3 percent for HC or 2 percent for $NO_x$, CO, and $CO_2$ of full scale chart deflection, or the test is void.

(16) Determine HC background levels for the cold start cycle by introducing a sample from the background bag into the overflow HC span system.

(17) Determine background levels of $NO_x$, CO, or $CO_2$ (if necessary) by the technique outlined in paragraph (e) of this section. The continuous analyzers may be used for analysis under paragraph (e).

**Note.**—For a quality control check on diesel HC, compare an analysis of a background bag to a continuous analysis of background air sampled through the total hydrocarbon probe. For best results, the difference should be less than 1 percent on the average (time integrated) dilute hydrocarbon emission level during the test.

(18) Repeat steps (7) through (17) for the hot cycle. The post-analysis zero and span check for the cold start (or previous hot start) cycle may be used for the pre-analysis zero and span for the following hot start cycle.

(19) If the HC drift is greater than 3 percent of full-scale chart deflection, hydrocarbon hang-up is suspected.

(f) HC hang-up. If the HC hang-up is suspected, the following sequence may be performed.

(1) Fill a clean sample bag with zero gas.

(2) Zero and span the HFID with the overflow system.

(3) Analyze the sample bag through the overflow sample system.

(4) Analyze tha sample bag on another FID or HFID meeting the specification of this Subpart or 40 CFR, Subpart D that does not have a hang-up problem.

(5) If the difference between the readings obtained is 3 percent or more of the HFID full scale, disconnect probe and clean same. (Soaking with sulfuric acid has proven effective.) Clean sample line also. (Heating to 450° F and flow nitrogen gas continuously for 12 hours has proven useful.)

(6) Reassembe the sample system, heat to specified temperature, and repeat the procedure in (1) through (6) above.

44. A new § 86.1341–86 is added and reads as follows:

**§ 86.1341–86 Test cycle validation criteria.**

(a) To reduce errors between the feedback and reference (cycle trace) values the engine speed and torque feedback signals may be shifted a maximum of ±5 seconds with respect to the reference speed and torque traces. If the feedback signals are shifted, both speed and torque must be shifted the same amount in the same direction.

(b) Calculate the brake horsepower for each pair of engine speed and torque values recorded. Also calculate the reference brake horsepower for each pair of engine speed and torque reference values. Calculations shall be to five significant digits.

(c) Linear regressions of feedback value on reference value shall be performed for speed, torque and brake horsepower. The method of least-square shall be used. The equation shall have the form:

$$y = mx + b$$

Where:

y = The feedback (actual) value of speed (in RPM), Torque (in ft-lbs.), or brake horsepower.

m = Slope of the regression line.

x = The reference value (speed, torque, or brake horsepower).

b = The y intercept of the regression line.

(d) The standard error of estimate (SE) of y on x and the coefficient of determination ($r^2$) shall be calculated for each regression line.

(e) For a valid test the criteria in Figure N86–14 must be met for both cycles (cold start and hot start) individually. Deletions from the regression analysis are permitted where allowed in Figure N86–14.

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## REGRESSION LINE TOLERANCES

| | SPEED | TORQUE | BRAKE HORSEPOWER |
|---|---|---|---|
| STANDARD ERROR OF ESTIMATE (SE) OF Y ON X | 100 RPM | 13% OF MAXIMUM ENGINE TORQUE | 8% OF MAXIMUM BRAKE HORSEPOWER |
| SLOPE OF THE REGRESSION LINE, M | 0.970-1.030 | 0.83-1.03 HOT<br>0.77-1.03 COLD | 0.89-1.03 (HOT)<br>0.87-1.03 (COLD) |
| COEFFICIENT OF DETERMINATION, $R^2$ | 0.9700 1/ | 0.8800 (HOT) 1/<br>0.8500 (COLD) 1/ | 0.9100 1/ |
| Y INTERCEPT OF THE REGRESSION LINE, B | ± 50 RPM | ± 15 FT. LBS. | ± 5.0 OF BRAKE HORSEPOWER |

1/ MINIMUM

## PERMITTED POINT DELETIONS FROM REGRESSION ANALYSIS

| CONDITION | POINTS TO BE DELETED |
|---|---|
| FIRST 24 SECONDS (± 1) OF FREE IDLE OF HOT AND COLD CYCLES | SPEED, TORQUE, BRAKE HORSEPOWER |
| WIDE OPEN THROTTLE { SPEED CONTROL: TORQUE FEEDBACK < TORQUE REFERENCE } | TORQUE, BRAKE HORSEPOWER |
| WIDE OPEN THROTTLE { TORQUE CONTROL: SPEED FEEDBACK < SPEED REFERENCE } | SPEED, BRAKE HORSEPOWER |
| SPEED CONTROL, CLOSED THROTTLE, TORQUE REFERENCE < ZERO | TORQUE, BRAKE HORSEPOWER |
| GASOLINE FUELED ENGINES EQUIPPED WITH AUTOMATIC CHOKES; FIRST 150 SECONDS OF COLD CYCLE OR FIRST 30 SECONDS OF HOT CYCLE, CLOSED THROTTLE AND: MANUAL TRANSMISSION, IF TORQUE FEEDBACK | |
| A: IS EQUAL TO ZERO (± 10 FT. LBS.) OR; | SPEED, BRAKE HORSEPOWER |
| B. AUTOMATIC TRANSMISSION, IF TORQUE FEEDBACK IS EQUAL TO CURB IDLE TRANSMISSION TORQUE (± 10 FT. LBS.) | SPEED, BRAKE HORSEPOWER |

FIGURE N86-14

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(f) The integrated brake horsepower-hour for each cycle (cold and hot start) shall be between −15 percent and +5 percent of the integrated brake horsepower-hour for the reference cycle or the test is void. All torque and speed data points must be used to calculate the intergrated brake horsepower-hour. For the purposes of this calculation, negative torque values (i.e., motoring horsepower) shall be set equal to zero and included.

(g) If a dynamometer test run is determined to be statistically or experimentally void, corrective action shall be taken. The engine shall then be allowed to cool (naturally or forced) and the dynamometer test rerun per § 86.1337–86.

45. A new § 86.1342–86 is added and reads as follows:

**§ 86.1342–86 Calculations; exhaust emissions.**

(a) The final reported transient emission test results shall be computed by use of the following formula:

$$A_{wm} = \frac{1/7(g_C) + 6/7(g_H)}{1/7(BHP\text{-}Hr_C) + 6/7(BHP\text{-}Hr_H)}$$

Where:

$A_{wm}$ = Weighted mass emission level (HC, CO, $CO_2$, NOx or particulate (diesel only)) in grams per brake horsepower hour.

$g_C$ = Mass emission level in grams, measured during the cold start test.

$g_H$ = Mass emissions level in grams, measured during the hot start test.

$BHP\text{-}HR_C$ = Total brake horsepower-hour (brake horsepower integrated with respect to time) for the cold start test.

$BHP\text{-}HR_H$ = Total brake horsepower-hour (brake horespower integrated with respect to time) for the hot start test.

(1) The mass of each pollutant for the cold start test and the hot start test for bag measurements and diesel heat exchanger sample system measurements is determined from the following equations:

(i) Hydrocarbon mass:

$$HC_{mass} = V_{mix} \times Density_{HC} \times (HC_{conc}/1{,}000{,}000)$$

(ii) Oxides of nitrogen mass:

$$NOx_{mass} = V_{mix} \times Density_{NO_2} \times K_H \times (NOx_{conc}/1{,}000{,}000)$$

(iii) Carbon monoxide mass:

$$CO_{mass} = V_{mix} \times Density_{CO} \times (CO_{conc}/1{,}000{,}000)$$

(iv) Carbon dioxide mass:

$$CO_{2mass} = V_{mix} \times Density_{CO_2} \times (CO_{2conc}/100)$$

(v) Diesel particulate mass:

$$P_{mass} = [V_{mix} + V_{Sf}] \times \frac{P_f}{V_{Sf}}$$

(2) The mass of each pollutant for the cold start test and the hot start test for flow compensated sample systems is determined from the following equations:

$$(i)\ HC_{mass} = \sum_{i=1}^{n} \left[\frac{(HC_e)_i \times (\dot{V}_{mix})_i \times (Density\ HC) \times \Delta T}{10^6}\right] - \frac{HC_d}{10^6}\left(1 - \frac{1}{DF}\right) \times V_{mix} \times Density_{HC}$$

$$(ii)\ NOx_{mass} = \sum_{i=1}^{n} \left[\frac{(NOx_e)_i \times (\dot{V}_{mix})_i \times (Density_{NO_2}) \times \Delta T}{10^6}\right] - \frac{NOx_d}{10^6}\left(1 - \frac{1}{DF}\right) \times V_{mix} \times Density_{NO_2}$$

$$(iii)\ CO_{mass} = \sum_{i=1}^{n} \left[\frac{(CO_e)_i \times (\dot{V}_{mix})_i \times (Density_{CO}) \times \Delta T}{10^6}\right] - \frac{CO_d}{10^6}\left(1 - \frac{1}{DF}\right) \times V_{mix} \times Density_{CO}$$

$$(iv)\ CO_{2mass} = \sum_{i=1}^{n} \left[\frac{(CO_{2_e})_i \times (\dot{V}_{mix})_i \times (Density_{CO_2}) \times \Delta T}{10^6}\right] - \frac{CO_{2_d}}{10^6}\left(1 - \frac{1}{DF}\right) \times V_{mix} \times Density_{CO_2}$$

(3) Meaning of symbols:

(i) $HC_{mass}$ = Hydrocarbon emissions, in grams per test phase.

$Density_{HC}$ = Density of hydrocarbons is 16.33 g/ft³ (.5768 kg/m³), assuming an average carbon to hydrogen ratio of 1:1.85, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$HC_{conc}$ = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent, i.e., equivalent propane X 3.

$HC_{conc} = HC_e - HC_d[1-(1/DF)]$

Where:

$HC_e$ = Hydrocarbon concentration of the dilute exhaust bag sample or, for diesel heat exchanger systems, average hydrocarbon concentration of the dilute exhaust sample as calculated from the integrated HC traces, in ppm carbon equivalent. For flow compensated sample systems $(HC_e)_i$ is the instantaneous concentration.

$HC_d$ = Hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.

(ii) $NOx_{mass}$ = Oxides of nitrogen emissions, in grams per test phase.

$Density_{NO2}$ = Density of oxides of nitrogen is 54.16 g/ft³ (1.913 kg/m³), assuming they are in the form of nitrogen dioxide, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$NOx_{conc}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in ppm.

$NOx_{conc} = NOx_e - NOx_d[1-(1/DF)]$

Where:

$NOx_e$ = Oxides of nitrogen concentration of the dilute exhaust bag sample as measured, in ppm. For flow compensated sample systems $(NOx_e)_i$ is the instantaneous concentration.

$NOx_d$ = Oxides of nitrogen concentration of the dilute air as measured, in ppm.

(iii) $CO_{mass}$ = Carbon monoxide emissions, in grams per test phase.

$Density_{CO}$ = Density of carbon monoxide is 32.97 g/ft³ (1.164 kg/m³), at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$CO_{conc}$ = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and $CO_2$ extraction, in ppm.

$CO_{conc} = CO_e - CO_d[1-(1/DF)]$

Where:

$CO_e$ = Carbon monoxide concentration of the dilute exhaust bag sample volume corrected for water vapor and carbon dioxide extraction, in ppm. For flow compensated sample systems $(CO_e)_i$ is the instantaneous concentration. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$CO_e = [1 - 0.01925CO_{2e} - 0.000323R]CO_{em}$

Where:

$CO_{em}$ = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

$CO_{2e}$ = Carbon dioxide concentration of the dilute exhaust bag sample, in percent. For flow compensated sample systems $(CO_{2e})_i$ is the instantaneous concentration.

R = Relative humidity of the dilution air, in percent (see § 86.1342-86(a)(5)).

$CO_d$ = Carbon moxide concentration of the dilution air corrected for water vapor extraction, in ppm.

$CO_d = (1 - 0.000323R)CO_{dm}$

Where:

$CO_{dm}$ = Carbon monoxide concentration of the dilution air sample as measured, in ppm.

**Note.**—If a CO instrument which meets the criteria specified in § 86.1311-86 is used and the conditioning column has been deleted, $CO_{em}$ can be substituted directly for $CO_e$ and $CO_{dm}$ can be substituted directly for $CO_d$.

(iv) $CO_{2mass}$ = Carbon dioxide emissions, in grams per test phase.

$Density_{CO2}$ = Density of carbon dioxide is 51.85 g/ft³ (1.843 kg/m³), at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$CO_{2conc}$ = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$CO_{2conc} = CO_{2e} - CO_{2d}[1-(1/DF)]$

Where:

$CO_{2d}$ = Carbon dioxide concentration of the dilution air as measured, in percent.

(v) $P_{mass}$ = Mass of particulate determined in grams per test phase.

$P_f$ = Mass of particulate per test on the exhaust filter (or filters if the back-up filter is required. See § 86.1310-86(c) for determination), grams.

$V_{sf}$ = Total volume of sample removed from the primary dilution tunnel, cubic feet at standard conditions.

(a) For a single-dilution system:

$$V_{sf} = \frac{V_{as} \times (P_B + P_{is}) \times 528°R}{T_{is} \times 760\ mmHG}$$

Where:

$V_{as}$ = actual volume of dilute sample removed from the primary-dilution tunnel, cubic feet.

$P_B$ = barometric pressure, mmHg.

$P_{is}$ = pressure elevation above ambient measured at the inlet to the dilute exhaust sample gas meter or flow instrumentation, mmHg. For most gas meters or flow instruments with unrestricted discharge $P_{is}$ is negligible and can be assumed = 0.

$T_{is}$ = average temperature of the dilute exhaust sample at the inlet to the gas meter or flow instrumentation, °R.

Note.—$V_{sf}$ may require correction according to § 86.1320-86(f).

(b) For a double-dilution system:

$V_{sf} = V_{pf}$

Where:

$V_{vf} = V_{av} \times (P_B + P_{iv}) \times 528°R / T_{iv} \times 760$ mmHG

$V_{av}$ = actual volume of double diluted sample which passed through the particulate filter, cubic feet.

$P_B$ = barometric pressure, mmHg.

$P_{iv}$ = pressure elevation above ambient measured at the inlet to the sample gas meter located at the exit side of the secondary dilution tunnel, mmHg. For most meters with unrestricted discharge $P_{iv}$ is negligible and can be assumed = 0.

$T_{iv}$ = Average temperature of the dilute exhaust sample at the inlet to the exit side gas meter or flow instrumentation, °R.

$V_{pf} = V_{ap} \times (P_B + P_{ip}) \times 528°R / T_{ip} \times 760$ mmHG

$V_{ap}$ = actual volume of secondary dilution air, cubic feet.

$P_B$ = barometric pressure, mmHg.

$P_{ip}$ = pressure elevation above ambient measured at the inlet to the sample gas meter or flow instrumentation located at the inlet side of the secondary dilution tunnel, mmHg. For most gas meters with unrestricted discharge $P_{ip}$ is negligible and can be assumed = 0.

$T_{ip}$ = Average temperature of the dilute exhaust sample at the inlet to the inlet side gas meter or flow instrumentation, °R.

Note.—Both $V_{vf}$ and $V_{pf}$ may require correction according to § 86.1320-86(f). These corrections must be applied before $V_{sf}$ is determined.

Note.—The background particulate level inside the dilution air filter box at EPA is very low. This particulate level will be assumed = 0, and background particulate samples will not be taken with each exhaust sample. It is recommended that background particulate checks be made periodically to verify the low level. Any manufacturer may make the same assumption without prior EPA approval.

(vi) $DF = 13.4/[CO_{2e} + (HC_e + CO_e) \times 10^{-4}$

$K_H$ + Humidity correction factor.

For gasoline engines:

$K_H = 1/[1 - 0.0047(H - 75)]$ (or for SI units $= 1/[1 - 0.0329(H - 10.71)]$)

For diesel engines:

$K_H = 1$.

Where:

H = Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.

$H = [(43.478)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$ for SI units, $H = [(6.211)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$

$R_a$ = Relative humidity of the ambient air, in percent.

$P_d$ = Saturated vapor pressure, in mm Hg (kPa) at the ambient dry bulb temperature.

$P_B$ = Barometric pressure, in mm Hg (kPa).

Dt = Time interval (in seconds) between samples in flow compensated systems (0.2 seconds maximum).

$V_{mix}$ = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R (293°K) and 760 mm Hg (101.3 kPa).

$(V_{mix})_i$ = Instantaneous dilute exhaust volumetric flow rate (for compensated flow systems), in cubic feet per second.

For PDP-CVS, $V_{mix}$ is:

$$V_{mix} = V_o \times \frac{N(P_B - P_A)(528°R)}{(760\ mm\ Hg)(T_p)}$$

for SI units,

$$V_{mix} = V_o \times \frac{N(P_B - P_A)(293.15°K)}{(101.3\ kPa)(T_p)}$$

Where:

$V_o$ = Volume of gas pumped by the positive displacement pump, in cubic feet (cubic metres) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

$P_B$ = Barometric pressure, in mm Hg (kPa).

$P_A$ = Pressure depressions below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).

$T_p$ = Average temperature of dilute exhaust entering positive displacement pump during test, °R (°K).

(b) Sample calculation of mass values of exhaust emissions:

(1) Assume the following test results for a gasoline engine:

| | Cold start cycle test results | Hot start cycle test results |
|---|---|---|
| $V_{mix}$ | 6924 ft³ | 6873 ft³. |
| R | 30.2% | 30.2%. |
| $R_a$ | 30.2% | 30.2%. |
| $P_B$ | 735 mm Hg | 735 mm Hg. |
| $P_d$ | 22.676 mm Hg | 22.676 mm Hg. |
| $HC_c$ | 132.07 ppm C equiv. | 86.13 ppm C equiv. |
| $NOx_c$ | 7.86 ppm | 10.98 ppm. |
| $CO_{mc}$ | 171.22 ppm | 114.28 ppm. |
| $CO_{2c}$ | .178% | .381%. |
| $HC_d$ | 3.60 ppm C equiv. | 8.70 ppm C equiv. |
| $NOx_d$ | 0.0 ppm | 0.10 ppm. |
| $CO_{md}$ | 0.89 ppm | 0.89 ppm. |
| $CO_{2d}$ | 0.0% | 0.38%. |
| BHP-HR | 0.259 | 0.347. |

Then:

*Cold Start Test*

$H = [(43.478)(30.2)(22.676)]/[735 - (22.676)(30.2)/100] = 41$ grains of water per pound of dry air.

$K_H = 1/[1 - 0.0047(41 - 75)] = 0.862$

$CO_e = [1 - 0.01925(.178) - 0.000323(30.2)]171.22 = 169.0$ ppm

$CO_d = [1 - 0.000323(30.2)]0.89 = .881$ ppm

$DF = 13.4/[.178 + (132.1 + 168.9)(10^{-5})] = 64.392$

$HC_{conc} = 132.1 - 3.6[1 - (1/64.265)] = 128.6$ ppm

$HC_{mass} = 6924(16.33)(128.6/1,000,000) = 14.53$ grams

$NOx_{conc} = 7.86 - 0.0[1 - (1/64.265)] = 7.86$ ppm

$NOx_{mass} = 6924(54.16)(.862)(7.86/1,000,000) = 2.54$ grams

$CO_{conc} = 169.0 - .881[1 - (1/64.265)] = 168.0$ ppm

$CO_{mass} = 6924(32.97)(168.0/1,000,000) = 38.35$ grams

$CO_{2conc} = .178 - 0[1 - /64.265)] = .178\%$

$CO_{2mass} = 6924(51.85)(.178/100) = 639$ grams

*Hot Start Test*

Assume similar calculations result in the following:

$HC_{mass} = 8.72$ grams

$NOx_{mass} = 3.49$ grams

$CO_{mass} = 25.70$ grams

$CO_{2mass} = 1226$ grams

(2) Weighted mass emission results:

$$HC_{wm} = \frac{1/7(14.53) + 6/7(8.72)}{1/7(0.259) + 6/7(0.347)}$$

$= 28.6$ grams/BHP-HR

$$NOx_{wm} = \frac{1/7(2.54) + 6/7(3.49)}{1/7(0.259) + 6/7(0.347)}$$

$= 10.0$ grams/BHP-HR

$$CO_{wm} = \frac{1/7(38.35) + 6/7(25.70)}{1/7(0.259) + 6/7(0.347)}$$

$= 82.2$ grams/BHP-HR

$$CO_{2wm} = \frac{1/7(639) + 6/7(1226)}{1/7(0.259) + 6/7(0.347)}$$

$= 3415$ grams/ BHP-HR

(c) The final reported brake-specific fuel consumption (BSFC) shall be computed by use of the following formula:

$$BSFC = \frac{1/7(M_C) + 6/7(M_H)}{1/7(BHP\text{-}HR_C) + 6/7(BHP\text{-}HR_H)}$$

Where:

BSFC = brake-specific fuel consumption in pounds of fuel per brake horsepower-hour (lbs/BHP–HR)

$M_C$ = mass of fuel, in pounds, used by the engine during the cold start test.

$M_H$ = mass of fuel, in pounds, used by the engine during the hot start test.

$BHP\text{–}HR_C$ = total brake horsepower-hours (brake horsepower integrated with respect to time) for the cold start test.

$BHP\text{–}HR_H$ = total brake horsepower-hours (brake horsepower integrated with respect to time) for the hot start test.

(1) The mass of fuel for the cold start and hot start test is determined from the following equation:

$$M = (G_s/R_2)(1/453.6)$$

(2) Meaning of symbols:

M = Mass of fuel, in pounds, used by the engine during the cold or hot start test.

$G_s$ = Grams of carbon measured during the cold or hot start test.

$$G_s = [12.011/(12.011 + \alpha(1.008))]HC_{mass} + 0.429CO_{mass} + 0.273\ CO_{2mass}$$

Where:

$HC_{mass}$ = Hydrocarbon emissions, in grams for cold or hot start test.

$CO_{mass}$ = Carbon monoxide emissions, in grams for cold or hot start test.

$CO_{2mass}$ = Carbon dioxide emissions, in grams for cold or hot start test.

$\alpha$ = The measured hydrogen to carbon ratio of the fuel.

$R_2$ = The grams of carbon in the fuel per gram of fuel.

$R_2 = 12.011/[12.011 + \alpha(1.008)]$

(d) Sample calculation of brake-specific fuel consumption:

(1) Assume the following text results:

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| | Cold Start Cycle Test Results | Hot Start Cycle Test Results |
|---|---|---|
| BHP-HR | 6.945 | 7.078 |
| $\alpha$ | 1.85 | 1.85 |
| $HC_{mass}$ | 37.08 grams | 28.82 grams |
| $CO_{mass}$ | 357.69 grams | 350.33 grams |
| $CO_{2mass}$ | 5419.62 grams | 5361.32 grams |

Then:

$G_s$ for cold start test =
$[12.011/(12.011 + (1.85)(1.008))](37.08) + 0.429(357.69) + 0.273(5419.62) = 1665.10$ grams

$G_s$ for hot start test =
$[12.011/(12.011 + (1.85)(1.008))](28.82) + 0.429(350.33) + 0.273(5361.32) = 1638.88$ grams

$R_2 = 12.011/[12.011 + 1.85(1.008)] = .866$

$M_C = (1665.10/.866)(1/453.6) = 4.24$ lbs.

$M_H = (1638.88/.866)(1/453.6) = 4.17$ lbs.

(2) Brake-specific fuel consumption results:

$$BSFC = \frac{1/7(4.24) + 6/7(4.17)}{1/7(6.945) + 6/7(7.078)} = .592 \text{ lbs.of fuel/BHP-HR}$$

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46. A new § 86.1343–86 is added and reserved as follows:

**§ 86.1343-86 [Reserved]**

47. A new § 86.1344–86 is added and reads as follows:

**§ 86.1344-86 Required information.**

(a) The required test data shall be grouped into the following three general categories:

(1) Engine set-up and descriptive data. This data must be provided to the EPA supervisor of engine testing for each engine sent to the Administrator for confirmatory testing prior to the initiation of engine set-up. This data is necessary to insure that EPA test personnel have the correct data in order to set up and test the engine in a timely and proper manner. This data is not required for tests performed by the manufacturers.

(2) Pre-test data. This data is general test data that must be recorded for each test. The data is of a more descriptive nature such as identification of the test engine, test site number, etc. As such, this data can be recorded at any time within 24 hours of the test.

(3) Test-data. This data is physical test data that must be recorded at the time of testing.

(b) All data may be supplied to the Administrator by punch cards, magnetic tape, or other electronic data processing means. Acceptable data formats and transmission techniques will be provided in the Application Format for Certification of the applicable Model Year.

(c) Engine set-up data. Because the specific test facilities may change somewhat with time, the specific data parameters and number of items may vary slightly. The Application Format for Certification for the applicable Model Year will specify the exact requirements. In general, the following type of data will be required:

(1) Engine manufacturer.

(2) Engine system combination.

(3) Engine code and CID.

(4) Engine identification number.

(5) Applicable engine model year.

(6) Engine fuel type.

(7) Recommended oil type.

(8) Exhaust pipe configuration pipe sizes, etc.

(9) Curb idle speed.

(10) Dynamometer idle speed. (Automatic transmission engines only.)

(11) Engine parameter specifications such as spark timing, operating temperature, advance curves, etc.

(12) Engine performance data such as, maximum BHP, rated speed, fuel flow, governed speed, etc.

(13) Recommended start-up procedure.

(14) Maximum safe engine operating speed.

(15) Number of hours of operation accumulated on engine.

(16) Manufacturer's recommended inlet depression limit and typical in-use inlet depression level.

(17) Exhaust system.

(i) *Diesel engines.* (A) Header pipe inside diameter.

(B) Tailpipe inside diameter.

(C) Minimum distance in-use between the exhaust manifold flange and the exit of the chassis exhaust system.

(D) Manufacturer's recommended maximum exhaust back pressure limit for the engine.

(E) Typical back pressure as determined by the maximum back pressure application of the engine.

(F) Minimum back pressure required to meet applicable noise regulations.

(ii) *Gasoline-fueled engines.* Typical in-use back pressure in vehicle exhaust system.

(d) Pre-test data. The following data shall be recorded, and reported to the Administrator for each test conducted for Compliance with the provisions of 40 CFR 86, Subpart A:

(1) Engine-system combination.

(2) Engine identification.

(3) Instrument operator(s).

(4) Engine operator(s).

(5) Number of hours of operation accumulated on the engine prior to beginning the test sequence (Figure N86–12).

(6) Fuel identification with average of test fuel used.

(7) Date of most recent analytical assembly calibration.

(8) All pertinent instrument information such as tuning, gain, serial numbers, detector number, calibration curve number, etc. As long as this information is traceable, it may be summarized by system number or analyzer identification numbers.

(e) *Test data.* The physical parameters necessary to compute the test results and insure accuracy of the results shall be recorded for each test conducted for compliance with the provisions of 40 CFR 86, Subpart A. Additional test data may be recorded at the discretion of the manufacturer. Extreme details of the test measurements such as analyzer chart deflections will generally not be required on a routine basis to be reported to the Administrator for each test, unless a dispute about the accuracy of the data arises. The following type of data shall be required to be reported to the Administrator. The Application Format for Certification for the applicable Model Year will specify the exact requirements which may change slightly from year to year with the addition or deletion of certain items.

(1) Date and time of day.

(2) Test number.

(3) Engine intake air or test cell temperature.

(4) Barometric pressure.

Note.—A central laboratory barometer may be used; *Provided*, that individual test cell barometric pressure are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(5) Engine intake or test cell and CVS dilution air humidity.

(6) Maximum torque versus speed curve as determined in § 86.1332, with minimum and maximum engine speeds.

(7) Measured maximum horsepower, maximum torque, and rated speeds.

(8) Measured maximum horsepower and torque.

(9) High idle engine speed (diesel engines only).

(10) Fuel consumption at maximum power and torque (diesel engines only).

(11) Curb-idle fuel flow rate.

(12) Cold soak time interval and cool down procedures.

(13) Temperature set point of the heated continuous analysis system components (if applicable).

(14) Test cycle validation criteria as specified in § 86.1341 for each test phase (cold-hot).

(15) Total CVS flow rate with dilution factor for each test phase (cold-hot).

(16) Sample concentrations (background corrected) for HC, CO, $CO_2$, and $NO_x$ for each test phase (cold-hot).

(17) Brake specific emissions (g/BHP-hr) for HC, CO and $NO_x$ for each test phase (cold-hot).

(18) The weighted (cold-hot) brake specific emissions (g/BHP-hr) for the total test.

(19) The weighted (cold-hot) carbon balance brake specific fuel consumption for the total test.

(20) The number of hours of operation accumulated on the engine after completing the test sequences described in Figure N86–10.

(21) *Additional required records for diesel engines.* (i) Pressure and temperature of the dilute exhaust mixture and secondary-dilution air in the case of a double-dilution system at the inlet to the respective gas meter(s) or flow instrumentation used for particulate sampling.

(ii) The temperature of the dilute exhaust mixture immediately before the particulate filter.

(iii) Gas meter or flow instrument readings at the start of each sample period and at the end of each sample period.

(iv) The stabilized pre-test weight and post-test weight of each particulate sample filter.

(v) The temperature and humidity of the ambient air in which the particulate filters were stabilized.

(vi) The temperatures of the gas (1) flowing in the heated sample line before the heated filter and (2) before the HFID, and the temperature of the control system of the heated hydrocarbon detector.

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federal register

Wednesday
January 7, 1981

Part IV

# Postal Service

Privacy Act of 1974; Systems of Records, Annual Publication

## POSTAL SERVICE

### Privacy Act of 1974; Systems of Records, Annual Publication

**AGENCY:** U.S. Postal Service.

**ACTION:** Annual report and final notice of records system changes.

**SUMMARY:** The primary purpose of this document is to publish the annual notice under 5 USC 552a(e) (4) of the systems of records, as defined in the Privacy Act of 1974, Pub. L. 93–579, which are maintained by the Postal Service. The full text of the Postal Service's systems of records last appeared at: 43 FR 40122, September 8, 1978, with numerous revisions published at 45 FR 1558, January 7, 1980. (Also see Privacy Act Issuances, 1979 Compilations, Volume IV, p. 3208.) This document publishes in full the systems that the Postal Service has amended since the January 7, 1980, publication and provides the full systems descriptions of those systems that were not published in the January 7, 1980, issue of the **Federal Register.** It also provides the system numbers and names of those systems that appeared in the January 7, 1980, **Federal Register** which have not been amended. In summary, the reader has available, in this publication and the January 7 document, the complete text for each Postal Service system of records. This document also provides final notice of several record systems description changes that have recently appeared for public comment in the **Federal Register.**

**DATE:** Parts 1, 2, and 3 are effective January 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mr. A. Scott Hamel (202) 245–4142.

**SUPPLEMENTARY INFORMATION:** Changes to the January 7, 1980, list appeared in the **Federal Registers** on May 15, 1980 (45 FR 32153), August 1, 1980 (45 FR 51322), August 25, 1980 (45 FR 56483), September 23, 1980 (45 FR 63198), and November 7, 1980 (45 FR 74124).

The Postal Service has determined it is necessary to: (1) publish final notice of the August 1, 1980, August 25, 1980, September 23, 1980 and November 7, 1980 proposals; (2) delete a previously published system from the list of systems of records; and (3) make minor editorial corrections and revisions to the descriptions of several systems of records.

Postal Service regulations concerning the privacy of information appear in 39 CFR 266. Those Postal Service systems of records which are exempt from certain provisions of the Privacy Act are listed in 39 CFR 266.9(b).

**Part 1: Final Notice of Prior Proposals**

On August 1, 1980, August 25, 1980, September 23, 1980 and November 7, 1980 the Postal Service published for comment in the **Federal Register** (45 FR 51322, 45 FR 56483, 45 FR 63198 and 45 FR 74124, respectively) notices of several Postal Service systems of records changes. The final notice of the changes follows:

(a) The Postal Service has determined that it is necessary to modify an existing system of records to provide for the collection and maintenance of information that will be used to make lockbox service available in convenient, detached locations to a larger segment of the public. The system will now contain completed questonnaires from members of the public who are interested in expanded lockbox service. The final revisions and the system to which it applies follows:

**USPS 010.020, Collection and Delivery Records—Boxholders Records**

*Categories of individuals covered by the system:*

Change to read, "Postal customers who have applied for or expressed an interest in lockbox or caller services, whether for private or public use."

*Categories of records in the system:*

Change to read, "Records are in printed or card form and contain name, addresses, telephone number, record of payment, lockbox service preference and the names of persons or agents whether family members, business associates, or employees."

*Routine uses of records maintained in the system, including categories of users and the purposes of such uses:*

Change routine use No. 2 to read, "2. Disclosed to a Federal, State or local government agency upon prior written certification that the information is required for the performance of its official business."

*Storage:*

Change to read, "Information is stored on printed or card form filed in metal file cabinets. In locations where the records have been automated, information may be found on magnetic tape, magnetic cards or mylar strips."

*Retention and disposal:*

Add, "c. Lockbox preference questionnaire forms are retained for six months after termination of survey."

(b) The Postal Service has automated certain portions of three systems to improve their operating efficiency. The systems affected and the changes to be made are set forth below:

**USPS 070.040, Inquiries and Complaints—Customer Complaint Records**

*Storage:*

Change to read, "Records are stored in original typed, printed, handwritten or computer printed form and on magnetic tape."

*Safeguards:*

Change to read, "Paper records are maintained in closed filing cabinets. Computer records are subject to the security of the computer room."

*Retention and disposal:*

Change to read, "Records are retained up to a maximum period of two calendar years. All correspondence is retained during the calendar year received, plus one additional year. Paper records are destroyed by burning or shredding. Computer records are destroyed by erasing."

**USPS 120.098, Personnel Records—Office of Workers' Compensation Program (OWCP) Records**

*Categories of records in the system:*

Change to read, "Copies of Department of Labor forms consisting of claims and supporting information, Postal Service forms and correspondence related to the claim; automated payment and accounting records."

*Storage:*

Change to read, "Printed forms and correspondence. (Note.—In some cases, the USPS by agreement with the Department of Labor (DOL), temporarily stores original case files. These files are considered to be DOL records to which DOL rather than USPS regulations apply.) Continuation of pay and DOL chargeback information is stored on computer media."

*Retrievability:*

Change to read, "Records are retrieved alphabetically by name and social security number."

*Safeguards:*

Change to read, "Maintained in locked filing cabinets within the exclusive custody of the injury compensation control point. Automated records are protected through computer password security."

*Retention and disposal:*

Change to read, "OWCP case files are maintained for five years after employee has left the Postal Service, then destroyed.

*System manager(s) and address:*

Change to read, "APMG, Employee Relations Department, and APMG, Finance Department, Headquarters."

**USPS 210.020, Contractor Records—Contract Employee Assignment Records**

*System name:*

Change to read, "Contract Records, Drivers Screening System."

*System location:*

Change to read, "Mail Processing Department, Headquarters; Regional Offices; Sectional Centers; Bulk Mail Centers; District Offices; Post Offices; Postal Data Centers; and Transportation Management Offices (TMOs)."

*Categories of individuals covered by the system:*

Change to read, "Persons under a highway contract with the USPS."

*Categories of records in the system:*

Change to read, "Name, social security account number and highway contract to which assigned."

*Storage:*

Change to read, "Originally typed, printed or handwritten form; magnetic tape and computer printed reports."

*Retrievability:*

Change to read, "Primarily by highway contract and postal locations serviced; secondarily, by individual's social security number and name."

*Safeguards:*

Change to read, "Through computerized codes and passwords, access is restricted to offices that are the authority for a specific contract and to only those post offices serviced by the contract."

*Retention and disposal:*

Change to read, "Records are held one year after the contract expires, or one year following an individual's employment termination with a company that has been awarded a highway contract."

*Notification procedure:*

Change to read, "Contractors wishing to know whether information about them is maintained in this system of records should address inquiries to the TMO Manager. Inquiries should contain full name and highway contract number."

(c) The Postal Service plans to extract and report leave usage information about PAR program participants from its payroll processing system (USPS 050.020). Reports will be distributed to PAR program personnel in order to improve the ability to assess the success of the PAR program. The following constitutes final notice of the necessary changes.

**USPS 120.140, Personnel Records—Program for Alcoholic Recovery (PAR)**

*System location:*

Change to read, "PAR offices, regional headquarters and Postal Data Centers."

*Categories of individuals covered by the system:*

Change to read, "USPS employees who volunteer for or are referred to the Program."

*Storage:*

Change to read, "Printed forms and paper files. Sick leave and Leave Without Pay information is stored on computer media."

*Safeguards:*

Change to read, "These restricted files are maintained in locked file cabinets with limited access to PAR personnel in secured facilities. Automated records are protected through computer password security and encoding of personal identifiers."

*Retention and disposal:*

Change to read, "1. Case card is destroyed six years following close of case file. 2. Correspondence and reports are destroyed three years (field) or ten years (Headquarters) after close of case file. 3. Historical case records card is destroyed six years after close of case file. 4. Case files are destroyed three years after recovery or one year after participant terminates enrollment. Paper records are destroyed by shredding and computer tape/disk records are destroyed by erasing."

(d) The Postal Service has modified USPS 120.120, Personnel Records—Personnel Research and Test Validation Records and USPS 120.098, Personnel Records—Office of Workers' Compensation (OWCP) Record Copies. For USPS 120.120, the Postal Service has expanded the types of records in the system, has modified the statement of purpose, has added one routine use and deleted an existing routine use "9", and has made other minor changes to the system.

USPS 120.098 was modified to add a new temporary routine use to allow the Postal Service on a one-time basis to disclose a limited amount of information about plan members to respective Federal health benefit carriers. This information will be used to identify postal employees who have received compensation payments for the same injury from both the Postal Service and the carriers.

One comment was received objecting to the proposed change in USPS 120.098 and objecting to the proposed adoption of USPS 120.099 (see (e) of this notice). The commenter questioned the right of the Postal Service to secure and store records under the system. The commenter also raised questions about the categories of individuals being limited to employees who have "voluntarily" filed for injury compensation and questioned the meaning of "left the Postal Service" in the retention and disposal of records section.

The purposes and authority for the maintenance of the systems are in consonance with the provision of the Privacy Act 5 U.S.C. 552a(e)(1) which requires that an agency with a system of records maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. The purposes of USPS 120.098 and USPS 120.099 are to help ensure the efficiency of postal operations, especially in light of concern regarding expenditures under the injury compensation program. Use of the word "voluntarily" was not intended to differentiate between postal employees who have "involuntarily" filed claims for injury compensation since all claims are filed on a voluntary basis. The word "voluntarily" merely points out the nature of involvement in the program. The meaning of "left the Postal Service" in the retention and disposal sections merely refers to an employee, who, for whatever reason, is no longer carried on Postal Service rolls.

(e) This document presents final notice of two new systems of records.

(1) USPS 120.121, Personnel Records—Applicant Race, Sex, National Origin and Disability Status Records. USPS 120.121 has been created to provide the Postal Service with the ability to assess the impact of selection decisions on applicants in each racial, sex, national origin and disability category who take entry level employment examinations; to implement and evaluate USPS affirmative action program in keeping with equal employment opportunity programs requirements under the law, and to identify categories of individuals for personnel records research.

(2) USPS 120.099, Personnel Records—Injury Compensation Payment Validation Records. USPS 120.099 was created to enable the Postal Service to identify employees who receive double compensation payments for the same

injury. See (d) above for a discussion of the comment received on proposed USPS 120.099. The descriptions of the two new systems appear in the list of systems at the end of this document. The changes mentioned above (a)–(e) have been incorporated into the list of systems descriptions at the end of this document.

**Part 2: Deletion of a Previously Announced System of Records**

Based on review and discussion with the responsible custodian of records within system USPS 120.037, Personnel Records, Grievance and Appeals Records for Bargaining Unit Employees, it was found that the records of this nature are not maintained in a manner that causes them to be retrieved by name or other personal identifiers. Rather, those records are retrieved by grievance case number. Since retrieval of records by some form of personal identification is required to bring them within the Privacy Act's definition of "systems of records", 5 U.S.C. 552a(a)(5), this system should not have been established as a Privacy Act system of records. For this reason, final notice is hereby given of the deletion of system 120.037.

**Part 3: Editorial Corrections and Revisions**

the Postal Service has also determined it is necessary to make certain editorial corrections and revisions to several systems of records descriptions. These editorial corrections and revisions do not reflect changes in the systems themselves, but are provided only as changes to the descriptions. In many cases, they correct typographic errors. These changes do not affect the general character or purpose of any system described, nor do they expand the population of individuals to which the systems apply. The following constitutes final notice of these changes:

**USPS 050.010, Finance Records—Employee travel records (Accounts Payable) 050.010**

*System name:*

Change to read, "Finance Records—Employee Travel Records (Accounts Payable, 050.010.

*USPS 050.020, Finance Records—Payroll System, 050.020*

*Categories of indivisuals covered by the system:*

Change to read, "USPS employees and postmaster relief/replacement employees."

*Routine uses of records maintained in the system, including categories of users and the purposes of such uses:*

Change routine use No. "20" to read, "20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit."

**USPS 070.040, Inquiries and Complaints—Customer Complaint Records, 070.040**

*System name:*

Change to read, "Inquiries and Complaints—Customer Complaint Records, 070.040.

**USPS 090.020, Non-Mail Services—Passport Application Records, 090.020**

*Notification procedure:*

Change to read, "Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the postmaster of the post office where a passport application was made. Inquiries should contain full name and date of application. (NOTE: The original case file is maintained by Department of State and must be requested from that organization as provided for under Department of State Privacy Act systems for passport information.)

**USPS 120.130, Personnel Records—Postmaster Selection Program Records, 120.130**

*System manager(s) and address:*

Change to read, "APMG, Employee Relations Department."

**USPS 120.180, Personnel Records—Skills Bank (Human Resources) Records, 120.180**

*Categories of individuals covered by the system:*

Change to read, "Skills bank records are maintained on different categories of USPS employees, Women, PCES and employees in various job categories.

*Retention and disposal:*

Change to read, "Paper records will be destroyed 1 or 2 years after information is successfully entered into the system, depending upon the particular program involved, by shredding or burning. Automated information will be erased 1 year after employee is terminated or is no longer in the particular job category."

*Record source categories.*

Change to read, "information is obtained directly from employee and USPS personnel forms and reports."

**USPS 190.030, Litigation Records—Labor Topic Files, 109.030**

*System name:*

Change to read, "Litigation Records—Labor Law Topic Files 190.030

**USPS 200.010, Non-Mail Monetary Claim—Relocation Assistance Claims, 200.010**

*System name:*

Change to read, "Non-Mail Monetary Claims—Relocation Assistance Claims, 200.010.

**W. Allen Sanders,**

*Associate General Counsel, General Law and Administration.*

**Annual Notice of Systems of Records**

The following points are relevant to the annual notice of Postal Service system of records provided in this document.

a. Most system containing contract records, as well as other legal records relating to those contracts, are considered business records by the Postal Service, rather than systems of personal records, as that term is defined in the Privacy Act. Accordingly, these systems are not listed.

b. All Postal Service records described in this list are subject to:

1. The subpoena of a court of competent jurisdiction.

2. Review by Congress or one of its committees or subcommittees upon request.

3. The "routine use" portion of each system notice contains, as the first item, the system "purpose." The "purpose" is included to provide clarity and promote understanding of the system by the layman. It may be defined as that activity performed by those officers and employees of the Postal Service who have a need for component records of the system in the performance of their duties. Disclosure accounting is not maintained by the Postal Service for any activity listed as a "purpose."

A complete description of the following systems of records was published in the **Federal Register** of January 7, 1980 (45 FR 1558). These systems have not been revised since that publication:

USPS 030.010, Equal Employment Opportunity—EEO Discrimination Complaint Investigations

USPS 030.030, Equal Employment Opportunity—EEO Administrative Litigation Case Files

USPS 040.020, Customer Program—Sexually Oriented Advertisements
USPS 050.005, Finance Records—Accounts Receivable File Maintenance
USPS 050.040, Finance Records—Uniform Allowance Program
USPS 070.010, Inquiries and Complaints—Correspondence Files of the Postmaster General
USPS 080.010, Inspection Requirements—Investigative File System
USPS 080.030, Inspection Requirements—Vehicular Violations Record System
USPS 100.050, Office Administration—Localized Employee Administration Records
USPS 110.020, Property Management—Possible Infringement of USPS Intellectual Property Rights
USPS 120.020, Personnel Records—Blood Donor Record System
USPS 120.036, Personnel Records—Discipline, Grievance and Appeals Records for Non-Bargaining Unit Employees
USPS 120.050, Personnel Records—Employee Suggestion Control
USPS 120.060, Personnel Records—Employment and Financial Interest Records
USPS 120.070, Personnel Records—General Personnel Folders (Official Personnel Folders and Records related thereto)
USPS 120.090, Personnel Records—Medical Records
USPS 120.100, Personnel Records—Performance Awards System Records
USPS 120.170, Personnel Records—Safe Driver Award Records
USPS 120.220, Personnel Records—Arbitration Case Files
USPS 130.020, Philately—Educators Stamp Fun Mailing Lists
USPS 150.025, Records and Information Management Records—Privacy Act Appeals System
USPS 170.010, Statistical (Cost) Systems—Workload Reporting Records
USPS 190.010, Litigation Records—Civil Action Case Files
USPS 190.020, Litigation Records—National Labor Relations Board Administrative Litigation Case Files
USPS 200.030, Non-Mail Monetary Claims—Tort Claims Records.
USPS 210.010, Contractor Records—Architect Engineers Selection Records.
USPS 210.030, Contractor Records—Contractor Employee Fingerprint Records.

The following are complete descriptions of those systems that have changed since the January 7, 1980 **Federal Register** publication and of those systems which last appeared in the September 8, 1978 **Federal Register:**

**USPS 010.010**

**SYSTEM NAME:**

Collection and Delivery Records—Address Change and Mail Forwarding Records, 010.010

**SYSTEM LOCATION:**

Post Offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Postal customers requesting mail forwarding services from their local postal facilities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records contain customer name, old address, new mailing address, mail forwarding instructions, effective date, information as to whether the move is permanent or temporary and the customer's signature.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 403, 404.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide mail forwarding and address correction services to postal customers who have changed address. Use—

1. Records about any named individual are made available to any member of public upon request.

2. Disclosure may be made to a congressional office from the record or an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

This source document is stored in filing cabinets at the delivery unit. They are filed alphabetically by name within month or quarter. Records generated from the source document are stored on cards or list forms or recorded on magnetic tape where central markup is computerized. These records are filed alphabetically by name and route number or zone.

**RETRIEVABILITY:**

This system of records is indexed by name and address. Information may be retrieved by route number or ZIP Code where a computerized system is in use.

**SAFEGUARDS:**

Access to and use of these records are limited to those persons whose official duties require such access.

**RETENTION AND DISPOSAL:**

a. Source document retained for 1 year from effective date and then destroyed by shredding or burning.

b. Information on magnetic tape is retained for 1 year from effective date. At the end of that period, the tapes are erased.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Delivery Service Department, headquarters.

**NOTIFICATION PROCEDURE:**

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name and address, effective date of change order, route number (if known) and ZIP Code.

**RECORD ACCESS PROCEDURES:**

See NOTIFICATION above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION above.

**RECORD SOURCE CATEGORIES:**

The individual to whom the record pertains.

**USPS 010.020**

**SYSTEM NAME:**

Collection and Delivery Records—Boxholder Records, 010.020.

**SYSTEM LOCATION:**

Post Offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Postal customers who have applied for or expressed an interest in lockbox or caller services, whether for private or public use.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records are in printed or card form and contain name, addresses, telephone number, record of payment, lockbox service preference and the names of persons or agents whether family members, business associates, or employees.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 403, 404.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide post office box services to postal patrons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

2. Disclosed to a Federal, State or local government agency upon prior written certification that the information is required for the performance of its official business.

3. Disclosed to persons authorized by law to serve judicial process when necessary to serve process.

4. Disclosed to public when box is being used for purpose of doing or soliciting business with the public.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Public Law 93–647.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Information is stored on printed or card form filed in metal cabinets. In locations where the records have been automated, information may be found on magnetic tape, magnetic cards or mylar strips.

**RETRIEVABILITY:**

Information is filed according to local needs, and the volume of records. Billing forms are filed numerically by box number within month in which rent is due. Applications are filed alphabetically by name of individual or firm.

**SAFEGUARDS:**

Access limited to employees working in the boxholder section.

**RETENTION AND DISPOSAL:**

a. Billing forms are destroyed by shredding 2 years after closeout of the last entry.

b. Boxholder applications are retained for 2 years after termination of the rental.

c. Lockbox preference questionnaire forms are retained for six months after termination of survey.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Delivery Services Department.

APMG, Finance Department, Headquarters.

APMG, Rates & Classification Department, headquarters.

**NOTIFICATION PROCEDURE:**

Inquiries should be addressed to the local postmaster, requestors in person should identify themselves with drivers license, military, government or other form of identification.

**RECORD ACCESS PROCEDURES:**

See "NOTIFICATION" above.

**CONTESTING RECORD PROCEDURES:**

See "Notification" above.

**RECORD SOURCE CATEGORIES:**

The individual to whom the record pertains.

**USPS 010.030**

**SYSTEM NAME:**

Collection and Delivery Records—Carrier Drive-Out Agreements, 010.030.

**SYSTEM LOCATION:**

District Offices, Sectional Centers, Post Offices, Postal Data Centers.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Letter carriers who use privately owned vehicles to transport the mails pursuant to a valid agreement with the local postmaster.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information in these records contain Route Number, name and address of carrier, social security number and effective dates of the agreement.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 1206.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide reimbursement to carriers driving their own vehicles.

Use—

1. Provide necessary tax information to Internal Revenue Service.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

3. May 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.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Information is contained on preprinted forms, magnetic tape and computer printout reports.

RETRIEVABILITY:

The system is indexed by employees' social security number, pay location number and pay period.

SAFEGUARDS:

Normal precautions of filing equipment and limited access and the physical security measures of the computer facility.

RETENTION AND DISPOSAL:

Megnetic tape records are retained for two calendar years (January–December) and then deleted. Source forms are retained until a new or changed agreement and then destroyed by shredding or burning after 1 year.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters.

NOTIFICATION PROCEDURE:

A carrier wishing to know if there is information in this system of records concerning him should notify the post office worked of the pay periods the agreement was in force, the route worked, give his name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 010.040

SYSTEM NAME:

Collection and Delivery Records—City Carrier Route Records, 010.040.

SYSTEM LOCATION:

Postal Service Headquarters, Regional Headquarters, District Offices, Sectional Centers, Post Offices, Automatic Data Processing Centers, Postal Data Centers and ADP Contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Letter carriers, substitute carriers and flexible employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, social security account number, age, route number, length of service, leave time and whether or not a transportation agreement exists. It also includes information pertaining to work load, work schedule, performance analysis and individual's work habits. Inspection reports of employees, work load and work load adjustments. Employee and Examiner's comments on route adjustments and inspections. Statistical engineering record of carrier and route characteristics.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To assist management in evaluating mail delivery and collection operations and administering these functions efficiently.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. May 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.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issued involved in the complaint.

7. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is contained on printed forms, computerized media, computer printouts.

RETRIEVABILITY:

The system is indexed by route number, employee name, or postal facility name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Route inspection records are retained for 2 years where inspections are made annually or more frequently, and for 5 years where inspections are made less than annually. Disposal of records is by shredding or burning.

b. Other records in system are retained for a period of up to 1 year depending upon the criticality of the information and then destroyed by shredding or burning.

c. Statistical engineering records are retained for 5 years and then further retained on a year-by-year basis as specifically justified.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters; SAPMG Operations Group, Headquarters (Statistical Engineering Records).

NOTIFICATION PROCEDURE:

Inquiries should contain employees name and social security number, specify the type of information being requested, and forwarded to post office where employed.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

From employees, carrier supervisors, and route inspectors.

USPS 010.050

SYSTEM NAME:

Collection and Delivery Records—Delivery of Mail Through Agents, 010.050.

SYSTEM LOCATION:

Sectional Centers, Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customer requesting delivery of mail through an agent and the agent to whom the mail is to be delivered.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain the name and address of customer, name and address of agent and the signatures of both parties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—It serves as the written authority for the delivery of mail other than as addressed.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained in file cabinets on pre-printed forms.

RETRIEVABILITY:

Forms are filed by customer name.

SAFEGUARDS:

Access is limited to postal employees in the delivery section.

RETENTION AND DISPOSAL:

Records are maintained until contract is terminated then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department.

NOTIFICATION PROCEDURE:

Submit to local postmaster proof of personal identity and name.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Co-signers of the request for delivery of mail through an agent.

USPS 010.070

SYSTEM NAME:

Collection and Delivery Records—Mailbox Irregularities, 010.070.

SYSTEM LOCATION:

District Offices, Sectional Centers, Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal Service customers whose mailbox does not comply with USPS standards and regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information consists of the reports of irregularities as submitted by the carrier or route inspector, the name and address of customer and the date and signature of the postmaster.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide for the efficient delivery of the mail.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is recorded on pre-printed forms.

RETRIEVABILITY:

Information is organized around route number.

SAFEGUARDS:

File in cabinets and access is limited to those USPS peronnel having a working requirement.

RETENTION AND DISPOSAL:

Retained for one year after completed action and destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Information may be obtained from the local postmaster, by presenting identification as to name and address and zip code.

RECORD ACCESS PROCEDURES:

Make request of the local postmaster.

CONTESTING RECORD PROCEDURES:

Make request of the local postmaster.

RECORD SOURCE CATEGORIES:

Carrier or route inspector.

USPS 010.080

SYSTEM NAME:

Collection and Delivery Records—Rural Carrier Routes, 010.080.

SYSTEM LOCATION:

Post Offices having rural carriers operations; Delivery Services Department, Sectional Centers; Regions; Districts; Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers receiving rural mail delivery services, and rural carriers, substitute carriers and flexible employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contained in this system are: Employee workload, work schedule and performance analysis. Inspection reports of employees, workload and workload adjustments, route travel description, employee and examiners' comments on adjustments and inspection. Employee name, route number, age, length of service, physical condition, quality of service and vehicle adequacy. Customer addresses and names of persons at

address location (some rural routes only).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 403, 404.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To assist management in evaluating rural mail delivery and collection operations and administering these functions efficiency and provide basis for payment of salary and vehicle maintenance allowance carriers.

Use—

1. Provide Bureau of the Census, Department of Commerce address information as requested to assist them in their statutory requirement of census taking.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuring such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

3. May 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.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

8. Inactive records may be transferred to a GSA Federal Records Center for storage prior to destruction.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Preprinted forms or lists in ordinary file equipment or on computer tape and printouts.

**RETRIEVABILITY:**

Records are maintained by name and address of customer, and by route number, employee name or postal facility name.

**SAFEGUARDS:**

Access to and use of these records are limited to those persons whose official duties require such access.

**RETENTION AND DISPOSAL:**

a. Records in card or list form are maintained as long as the customer resides on the route; they are destroyed by shredding one year after the customer moves. b. Route travel description records, and establishment and discontinuance orders are retained until route is discountinued and then transferred to the Federal Records Center within two years after discontinuance date. c. Trip reports are retained for three years and then disposed of by shredding or burning. d. Route inspection reports and mail count records (mail counts made annually or more frequently) are retained for two years. Where mail counts are made less than annually records are retained until the next mail counts. Disposal of records is by shredding or burning. e. Other carrier records in system are retained for a period of up to one year depending upon the criticality of the information and then destroyed by shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Delivery Services Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name and address. Employee inquiries should state employee name and social security number, route number, specify the type of information being requested, and forward to post office where employed.

**RECORD ACCESS PROCEDURES.**

See NOTIFICATION above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION above.

**RECORD SOURCE CATEGORIES:**

The customer to whom the record pertains and from employees, carrier supervisors and route inspectors.

**USPS 020.010**

**SYSTEM NAME:**

Communications (Public Relations)—Biographical Summaries of Management Personnel for Press Release, 020.010

**SYSTEM LOCATION:**

Office of Public and Media Relations, Headquarters.

Office of Communications and Public Affairs, Regional Headquarters.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

USPS executives, directors and managers to include regional staff officers, division directors, district managers, sectional center managers and other key management officials who may have frequent contact with news media or public speaking engagements.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Biographical summaries on sheets of paper plus photographs. Summaries include information as to present title and responsibility, length of service, age, place of birth, marital status and participation in local community activities.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 USC 401, 1001.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose and Routine.

Use—

1. To provide the public with brackground information on postal management personnel in connection with public relations matters such as speaking engagements, media appearances, appearances before civic, fraternal and employee organizations.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Information is maintained on regular bond paper in file cabinets.

**RETRIEVABILITY:**

Information is filed by name and title.

**SAFEGUARDS:**

File cabinets are located in communications offices where information is available only to individuals having a need for access.

**RETENTION AND DISPOSAL:**

a. Biographical sketches maintained at regions are retained while the individual is assigned within the region. If individual is promoted to or assigned to a position within the USPS outside the Region, biographical information is forwarded to the appropriate Public Affairs office; if employment with the USPS is terminated, the sketch is destroyed by shredding.

b. Biographical sketches maintained at USPS, Washington, D.C., are retainted indefinitely.

**SYSTEM MANAGER(S) AND ADDRESS.**

APMG, Employee and Public Communications, Headquarters.

**NOTIFICATION PROCEDURE:**

Inquiries should contain name and position held and presented to the Manager of Communications and Public Affairs where currently, or previously, employed.

**RECORD ACCESS PROCEDURES:**

See "NOTIFICATION" above.

**CONTESTING RECORD PROCEDURES:**

See "NOTIFICATION" above.

**RECORD SOURCE CATEGORIES:**

The individual to whom the record pertains.

**USPS 030.020.**

**SYSTEM NAME:**

Equal Employment Opportunity—Equal Employment Opportunity Staff Selection Records, 030.020

**SYSTEM LOCATION:**

Employee Relations Department, Headquarters, Regional Headquarters, Federal Records Centers.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Candidates considered by Promotion Boards for EEO staff position.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name of candidate, level, address, service computation date, date of birth, Social Security Number, postal background, personal information required to assess employee qualifications for position, estimate of potential and record of members of Board.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

30 U.S.C. 1001, Executive Orders 11478 and 11590.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide headquarters with information needed to complete selection process.

Use—

1. USPS Promotion Board reviews these records to determine applicant's eligibility for appointment.

2. May 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 state of the legislative coordination and clearance process as set forth in that Circular.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressinal office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

7. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Forms, paper files.

**RETRIEVABILITY:**

Name of applicant and pay location.

**SAFEGUARDS:**

Maintained in locked file cabinets within secured facility.

**RETENTION AND DISPOSAL:**

Records are transferred to the Federal Records Center and maintained indefinitely.

**SYSTEM MANAGER(S) AND ADDRESS.**

APMG, Employee Relations Department, Headquarters

**NOTIFICATION PROCEDURE:**

Inquiries should be addressed to the head of the facilities where application was made. Inquiries should contain full name, position applied for, the date the Promotion Board met and Social Security Number.

**RECORD ACCESS PROCEDURES:**

See "NOTIFICATION" above.

**CONTESTING RECORD PROCEDURES:**

See "NOTIFICATION" above.

**RECORD SOURCE CATEGORIES:**

Employee, and employee personnel data.

**USPS 040.010.**

**SYSTEM NAME:**

Customer Programs—Memo to Mailers Address File, 040.010

**SYSTEM LOCATION:**

USPS Headquarters, Customer Services Department and at a contractor site.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Subscribers to Memo to Mailers monthly newsletter.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Subscribers' mailing addresses and status of membership in Postal Customers Councils.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 USC 403, 404.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To prepare mailing labels for the monthly mailing of Memo to Mailers.

Use—

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made from the record of an individual, where pertinent,

in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Magnetic tape and computer printout.

RETRIEVABILITY:

Records are maintained by subscriber's name, city, state and ZIP Code.

SAFEGUARDS.

The list contractor is forbidden by contract to use the list for any other means than to produce mailing labels for the U.S. Postal Service.

RETENTION AND DISPOSAL:

The master file is maintained indefinitely, and is updated each month.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the SYSTEM MANAGER and supply their name and address.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION PROCEDURE" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION PROCEDURE" above.

RECORD SOURCE CATEGORIES:

Subscribers, Postmaster, USPS Customer Service Representatives.

USPS 050.010.

SYSTEM NAME:

Finance Records—Employee Travel Records (Accounts Payable), 050.010

SYSTEM LOCATION:

Postal Data Centers, Postal Service Personnel Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS Employees on official travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel vouchers and travel advances containing employee name, social security number, Finance Number, basic travel information, and relocation data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1001, 2008.

ROUTINE USERS OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Reimburse Employees for official travel.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, agency, whether Federal, State, or local, 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.

2. May 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.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

7. Records in this system are subject to review by an independent Certified Public Accountant during an official audit of Postal Service finances.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is stored on pre-printed forms and magnetic tape.

RETRIEVABILITY:

Information is indexed by social security number.

SAFEGUARDS:

Access is subject to computer center access control.

RETENTION AND DISPOSAL:

Retained four years after payment and destroyed by burning or magnetic tape by scratching and reuse.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Finance Department, Headquarters.

NOTIFICATION PROCEDURE:

Requests for information should be presented to Employee's Personnel Officer, furnishing name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is received from the employee filing a voucher.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System, 050.020

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees and postmaster relief/replacement employees

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding, allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401, 1003, 5 USC 8339

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of their managerial duties.

2. To provide information to USPS Management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection committee and Regional Postmasters General.

3. To compile various lists and mailing lists, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluations, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various salary ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 USC, Section 8334, along with a check.

2. Tax Information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W-2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FI (SS Tax) Deduction—To SS Administration as record of earnings under the SS act for all casual employees not under retirement.

7. Determine eligibility for coverage and payment of benefits under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers' Compensation Program. Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local, 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.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcment or other pertinent information, such as 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 benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

16. May 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.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

22. To provide data for the automated Central Personnel Data File (CPDF) maintained by the Office of Personnel Management.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this sytem are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Public Law 93-647. (Proposed 10/79)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY.

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

Records are retained and updated throughout employment with the Postal Service. Upon separation records become historical data, this data is retained at the local site for two years then forwarded to the Federal Records Center nearest the pay location.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Payroll Systems Department, Headquarters. APMG, Employee Relations Department.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed, giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

USPS 060.010

SYSTEM NAME:

Fraud and False Representation Records—Consumer Protection Case Records, 060.010

SYSTEM LOCATION:

Consumer Protection Office, Law Department, USPS Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Respondents in proceedings initiated pursuant to 39 U.S.C. subsection 3005; names of attorneys representing parties; assigned Postal Inspectors; and promoter of scheme.

CATEGORIES OF RECORDS IN THE SYSTEM:

Describes and provides history of the above and identifies interested parties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM.

39 USC subsection 3005.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Ready reference source for determining status of pending case and identification of postal employees most familiar therewith.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record or an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information in this system is maintained on printed forms.

RETRIEVABILITY:

Records are maintained by an alphabetic indexing by name of respondent.

SAFEGUARDS:

Records are maintained in closed filing cabinets under general scrutiny by personnel of the Law Department.

RETENTION AND DISPOSAL:

Records in this system are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel, Consumer Protection Office, Law Department, USPS Headquarters.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the above SYSTEM MANAGER. Inquiries should contain full name, name by which respondent in proceeding may have been designated; approximate time period in which proceedings may have been initiated.

RECORD ACCESS PROCEDURES:

See SYSTEM MANAGER above.

CONTESTING RECORD PROCEDURES:

See SYSTEM MANAGER above.

RECORD SOURCE CATEGORIES:

Complaints, correspondence between parties involved and Postal Inspection Service investigative reports.

USPS 060.020

SYSTEM NAME.

Fraud and False Representation Records—Prohibitory Order, 060.020

SYSTEM LOCATION.

Consumer Protection Office, Law Department, Headquarters, Postal Service Centers, Regional Headquarters, Sectional Management Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting prohibitory orders, the mailers against whom such orders are issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for prohibitory orders, the mailing upon which request is predicated, the issued order and the registered mail receipt signed by mailer against whom order was issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC subsection 3008.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To process request of an order to prohibit pandering advertisement and to determine whether violations of orders have occurred. Used by Consumer Protection Office and Regional Counsel to investigate violations of postal statutes.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the

appropriate agency, whether Federal, State, or local, 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.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Information is maintained in letter form, handwritten and typed.

**RETRIEVABILITY:**

Data may be found by prohibitory order number or by name of person requesting order.

**SAFEGUARDS:**

Records are maintained in closed filing cabinets.

**RETENTION AND DISPOSAL:**

Information is retained indefinitely.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant General Counsel, Consumer Protection Office, Law Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Name and address of person requesting prohibitory order should be furnished the SYSTEM MANAGER.

**RECORD ACCESS PROCEDURES:**

See NOTIFICATION above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION above.

**RECORD SOURCE CATEGORIES:**

Persons requesting prohibitory orders.

**USPS 070.020**

**SYSTEM NAME:**

Inquiries and Complaints—Government Officials' Inquiry System, 070.020.

**SYSTEM LOCATION:**

Government Relations Department, USPS Headquarters.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees, former employees, applicants for employment, contractors, lessors, and customers who have written to nonpostal government officials, congressmen and other government officials corresponding with the USPS in behalf of postal customers/employees and various individuals to whom Postal Service announcements/greetings are directed.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information stemming from correspondence described above, and lists of individuals for announcements/greetings.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide USPS officials with the means of responding to inquiries from and/or for other government officials and to serve as a work load reporting system for which a description appears as USPS 170.010.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

**POLICIES AND PRACTICES FOR STORING, RECRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

In original, typed, printed, or handwritten form and on magnetic tape/disk and computer printouts.

**RETRIEVABILITY:**

Subject category as derived from correspondence and the name of the inquirer and/or official inquiring in his/her behalf.

**SAFEGUARDS:**

Records are maintained in closed file cabinets under general scrutiny of personnel of Government Relations Department. Computer readable media are maintained in a secured data processing facility.

**RETENTION AND DISPOSAL:**

Paper records are maintained for four years and then destroyed by shredding; magnetic tape/disk records are kept for three years and then erased.

**SYSTEM MANGER(S) AND ADDRESS:**

APMG, Government Relations Department, USPS Headquarters.

**NOTIFICATION PROCEDURE:**

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the above System manager. Inquiries should contain full name, the name of the government official to whom he wrote, the nature of his inquiry and the approximate date.

**RECORD ACCESS PROCEDURES:**

See Notification Procedure above.

**CONTESTING RECORD PROCEDURES:**

See Notification Procedure above.

**RECORD SOURCE CATEGORIES:**

Nonpostal government officials.

**USPS 070.040**

**SYSTEM NAME:**

Inquiries and Complaints—Customer Complaint Records, 070.040.

**SYSTEM LOCATION:**

Consumer advocate. USPS, Regional and National Headquarters, District Officers, Post Offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

USPS customers who have initiated complaints against the USPS.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The complainant's name, address, and nature of the specific complaint, and resolution of same.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 403, 404

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To process USPS customer complaints regarding mail services.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Records are stored in original typed, printed, handwritten or computer printed form and on magnetic tape.

**RETRIEVABILITY:**

By chronological sequence within subject category as derived from correspondence and the name of inquirer or complainant.

**SAFEGUARDS:**

Paper records are maintained in closed filing cabinets. Computer records are subject to the security of the computer room.

**RETENTION AND DISPOSAL:**

Records are retained up to a maximum period of two calendar years. All correspondence is retained during the calendar year received, plus one additional year. Paper records are destroyed by burning or shredding. Computer records are destroyed by erasing.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Customer Services Department, Headquarters

**NOTIFICATION PROCEDURE:**

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the same facility to which they submitted their complaint.

**RECORD ACCESS PROCEDURES:**

See Notification above.

**CONTESTING RECORD PROCEDURES:**

See Notification above.

**RECORD SOURCE CATEGORIES:**

USPS customers.

**USPS 080.020**

**SYSTEM NAME:**

Inspection Requirements—Mail Cover Program, 090.020.

**SYSTEM LOCATION:**

USPS Inspection Service National and Regional Headquarters; Divisional Headquarters.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals on whom a mail cover has been duly authorized to obtain information in the interest of (1) protecting the national security (2) locating a fugitive and (3) obtaining evidence of the commission or attempted commission of a crime which is punishable by imprisonment for a term exeeding one year.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names and addresses of individuals, inter-office memorandums, and correspondence with other agencies.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401,404.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To investigate the commission on or attempted commission of acts constituting a crime that is punishable by law.

Use—

1. Information from this system of records may be disclosed to an appropritate law enforcement agency, whether Federal, State or local, charged by law with the responsibility for investigating, prosecuting or otherwise acting with respect to protecting the national security, locating a fugitive, or obtaining evidence of commission or attempted commission of a crime.

2. A record relating to a case or matter may be disseminated in an appropriate Federal, State, local, or foreign court on grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice.

3. A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Original typed documents and/or duplicate copies.

**RETRIEVABILITY:**

Subject's name filed alphabetically by fiscal year.

**SAFEGUARDS:**

Mail cover data is stored in locked cabinets or in a safe. Classified mail cover material and any mail cover data which involves national security is stored in a safe or in metal file cabinets equipped with either steel lockbar hasp and staple, or locking device and an approved three or more combination dial-type padlock from which the manufacturer's identification numbers have been obliterated

**RETENTION AND DISPOSAL:**

Files and records pertaining to mail covers are retained for eight years, and older data is destroyed by shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief Inspector, UPSPS Headquarters.

**NOTIFICATION PROCEDURE:**

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the above SYSTEM MANAGER. Inquiries should contain full name and current address, together with previous addresses for past eight years when applicable.

**RECORD ACCESS PROCEDURES:**

See System Manager above.

**CONTESTING RECORD PROCEDURES:**

See System Manager above.

**RECORD SOURCE CATEGORIES:**

Correspondence from requesting authority and record of action taken upon that request.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Reference 39 C.F.R. 266.9 for details.

**USPS 090.020**

**SYSTEM NAME:**

Non-Mail Services—Passport Application Records, 090.020.

**SYSTEM LOCATION:**

Eight-hundred (800) Post Offices in all states except New Jersey.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons applying for passports.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Passport applications, name, telephone number and services rendered.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401, 411, 22 U.S.C. 214.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To process the application of passports.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, 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 stature, or rule, regulation, or order issued pursuant thereto.

2. Records may be transferred to the State Department.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Information in this system is maintained on printed forms in hard copy.

**RETRIEVABILITY:**

By name of applicant and by postal accounting quarter.

**SAFEGUARDS:**

Information in this system of records is maintained in file cabinets in the Accounting Unit.

**RETENTION AND DISPOSAL:**

Passport applications are retained for two days at the post office where application was made and then forwarded to the Department of State. Applicant's names and telephone numbers are retained at the post office for three months following the close of the postal quarter in which application was made.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG Delivery Services Department.

**NOTIFICATION PROCEDURE:**

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the postmaster of the post office where a passport application was made. Inquiries should contain full name and date of application. (NOTE: The original case file is maintained by Department of State and must be requested from that organization as provided for under Department of State Privacy Act system for passport information.)

**RECORD ACCESS PROCEDURES:**

See "NOTIFICATION" above.

**CONTESTING RECORD PROCEDURES:**

See "NOTIFICATION" above.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is obtained from the applicant.

**USPS 090.030.**

**SYSTEM NAME:**

Non-Mail Service—U.S. Savings Bonds Application Record. 090.030

**SYSTEM LOCATION:**

Selected Post Offices throughout the United States where the Postal Service is the issuing agent.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons applying for U.S. Savings Bonds to be issued in the names of natural persons in their own right only.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name and address, number of bonds applied for and total amount of purchase.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401, 411.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To process applications for U.S. Savings Bonds.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

3. To refer, where there is an indication of a violation or potential violator of law, whether civil, criminal, or regulatory in nature, 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.

4. Records may be transferred to the Treasury Department.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Information in this system is maintained on printed forms in hard copy.

**RETRIEVABILITY:**

By name of applicant.

**SAFEGUARDS:**

Information in this system of records is maintained on secure premises in file cabinets.

**RETENTION AND DISPOSAL:**

Information in this system is maintained for two years and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

AMPG, Finance Department.

**NOTIFICATION PROCEDURE:**

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the postmaster in whose facility the application was filed, inquiries should contain full name and address of customer.

**RECORD ACCESS PROCEDURES:**

See Notification above.

**CONTESTING RECORD PROCEDURES:**

See Notification above.

**RECORD SOURCE CATEGORIES:**

Information in this system of record is obtained from the applicant.

**SYSTEM NAME:**

Office Administration—Carpool Coordination/Parking

Records System. 100.010

SYSTEM LOCATION:

Procurement and Supply Department, Headquarters and various field installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees, other building tenants, and other individuals who are members of carpools with USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, letters of violations, letters of suspensions, payment data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Provide parking and carpooling services to employees.

Use—

1. To provide each employee of Headquarters, USPS, who desires to join or establish a carpool with the listing of employees who live in his/her ZIP Code area.

2. May 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.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Preprinted forms and magnetic tape/disc.

RETRIEVABILITY:

Carpool member name and ZIP Code, space or license number.

SAFEGUARDS:

Folders containing paper documents are maintained in locked file cabinets to which only authorized personnel have access. Computer equipment is located in secured area, and magnetic tape/disc files are kept in locked steel cabinets.

RETENTION AND DISPOSAL:

All carpool and parking service records are retained for a period of six months following termination of service. At the end of retention period, paper records are destroyed by shredding and tape/disc records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

AMPG, Procurement and Supply Department, Headquarters, Executive Manager, PST & DI Center.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager where employed.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

From carpool and parking service applicants/users.

USPS 100.020

SYSTEM NAME:

Office Administration—Customer Services Communicator Letter, 100.020.

SYSTEM LOCATION:

Customer Services Department, Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Headquarters and Regional Customer Services personnel, District Managers, District Directors of Customer Services, Sectional Center Directors of Customer Services, BMC General Managers and Customer Engineers, selected postmasters and requesters, Customer Services representatives, Sectional Center Managers of Retail Sales and Services, Post Office Managers of Customer Services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and home/business address of employees receiving newsletter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To distribute a sales and marketing newletter to Postal Service Customer services employees.

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Addressograph plates, magnetic tape, computer printouts and paper forms.

RETRIEVABILITY:

Name of recipient of communicator letter.

SAFEGUARDS:

Addressograph plates and paper forms are kept in closed file cabinets accessible only by authorized customer services personnel. Magnetic tapes and computer printouts are maintained in a secured ADP facility.

RETENTION AND DISPOSAL:

Records are maintained on a year-to-year basis subject to reverification each year. At the end of retention period, paper records are shredded, computer records are erased, and addressograph plates are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Postmaster General, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where they are employed.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

**CONTESTING RECORD PROCEDURES:**

See Notification Procedure above.

**RECORD SOURCE CATEGORIES:**

Information in this system is obtained from payroll system and in-house listings of interested readers.

**USPS 110.010**

**SYSTEM NAME:**

Property Management Records—Accountable Property Records, 110.010.

**SYSTEM LOCATION:**

All USPS Components.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees assigned accountable property.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records controlling the issuance of accountable Postal Service Property, such as equipment, credentials, and controlled documents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 USC 401

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide a record of accountable property on hand and to whom it has been assigned.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate law enforcement agency, whether Federal, state, or local, 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.

2. May 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.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its requests when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Information in this system is maintained on printed forms.

**RETRIEVABILITY:**

Name of recipient of accountable property and types of equipment.

**SAFEGUARDS:**

Physical security.

**RETENTION AND DISPOSAL:**

As long as individual is charged with equipment, records are returned to individual when he is no longer accountable.

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) Chief Postal Inspector, Headquarter; (2) APMG, Procurement and Supply Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Employees wishing to know whether information about them is maintained in the system should address inquiries to the Custodian in the facility where assignment was made. Headquarters employees should submit request to the SYSTEM MANAGER.

**RECORD ACCESS PROCEDURES:**

See Notification above.

**CONTESTING RECORD PROCEDURES:**

See Notification above.

**RECORD SOURCE CATEGORIES:**

Information is obtained by the individual to whom the record pertains.

**USPS 120.035.**

**SYSTEM NAME:**

Personnel Records—Employee Accident Records, 120.035

**SYSTEM LOCATION:**

Safety offices in any USPS facility.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All postal employees that have an accident that involves 100 dollars or more damage and/or an occupational injury or illness.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, address, age, sex and type of accident.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Public Laws 91–596 and 94–82, Executive Orders 11807.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide data for analytical studies.

Use—

1. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

2. To furnish the U.S. Department of Labor with serious accident reports, information to reconcile claims filed with the Office of Worker's Compensation and quarterly and annual summaries of occupational injuries and illnesses; and to make information available to the Secretary of Labor upon his request.

3. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

4. To a court, party, or counsel for a party, to litigation involving accident or to which it is relevant or to persons insurance companies or counsel for the foregoing settlement or attempting to settle claims involving the accident.

5. May 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.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its requests when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

**POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE.**

Information in this system is maintained on index cards, magnetic tape, preprinted forms and computer print-outs.

**RETRIEVABILITY:**

Employee name and social security number.

**SAFEGUARDS:**

Maintained in closed file cabinets within secured facilities.

**RETENTION AND DISPOSAL:**

Records are maintained locally for two years. Copies are maintained at National Headquarters for five years follwing the end of the calendar year to which they relate as required by OSHA.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the SYSTEM MANAGER. Inquiries should contain full name, address, finance number and social security number.

**RECORD ACCESS PROCEDURES:**

See NOTIFICATION above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION above.

**RECORD SOURCE CATEGORIES:**

USPS Accident Reports and OWCP claim forms.

**USPS 120.040.**

**SYSTEM NAME:**

Personnel Records—Employees Job Bidding Records, 120.040

**SYSTEM LOCATION:**

Most departments, facilities and certain contractor sites of the Postal Service.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees who have made a "Bid for Preferred Assignment" with the USPS.

**CATEGORIES OF RECORDS IN THE SYSTEM.**

Knowledge of schemes, vacant position characteristics, seniority of the employee, level of the candidate, and craft.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 USC 1001, 1206.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide the Office of Personnel with fair and impartial information to match vacant position to the most qualified candidate.

Use—

1. To provide information for official bulletin boards and release to various employee organizations.

2. May 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.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Records are stored on magnetic tape, punched cards, preprinted forms and computer printed reports.

**RETRIEVABILITY:**

This system is indexed by employee name and Social Security Number.

**SAFEGUARDS:**

Computer center access control and limitation within offices to those employees maintaining the system.

**RETENTION AND DISPOSAL:**

Computer records are saved two years, then automatically deleted. Paper records are kept six months after a vacancy is filled, then destroyed. Some records are retained until employee separation.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Department, Headquarters.

**NOTIFICATION PROCEDURE.**

The employee should state the position of bid and identify himself with name, Social Security Number, closing date of the bid notice, and forward this information to the head of the facility where employed. Headquarters employees should submit requests to the System Manager.

**RECORDS ACCESS PROCEDURES:**

See "NOTIFICATION" above.

**CONTESTING RECORD PROCEDURES:**

See "NOTIFICATION" above.

**RECORD SOURCE CATEGORIES:**

Employee personnel data, scheme knowledge, qualifications of the job and of the candidate, successful bidders notices from vacant duty assignment postings.

**USPS 120.080**

**SYSTEM NAME:**

Personnel Records—Master Minority File Records, 120.080.

**SYSTEM LOCATION:**

Employee Relations Department, Headquarters and Postal Data Centers.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of the Minority Designation Code and social security number of USPS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2000e–16, Executive Orders 11478 and 11590.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

Purpose—To provide the USPS Office of Equal Employment Opportunity with minority statistics as required.

1. Disclosure may be made to the Civil Service Commission for the oversight and enforcement of Federal EEO regulations.

2. Information contained in this system for records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Magnetic tapes.

RETRIEVABILITY:

Employee's social security number.

SAFEGUARDS:

Computer Password security, physical security, specialized access instructions.

RETENTION AND DISPOSAL:

Computer records are retained for two years.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department.

NOTIFICATION PROCEDURE:

Employees wishing to know whether a minority code is maintained for them, should address inquiries to the System Manager. Inquiries should contain full name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is obtained from the employees.

USPS 120.098

SYSTEM NAME:

Personnel Records—Office of Workers' Compensation Program (OWCP), Record Copies 120.098.

SYSTEM LOCATION:

All postal facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal employees who have voluntarily filed for injury compensation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of Department of Labor forms consisting of claims and supporting information, Postal Service forms and correspondence related to the claim; automated payment and accounting records.

AUTHORITY FOR MAINENANCE OF THE SYSTEM:

39 U.S.C. 1005.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide injury compensation to qualifying employees is and to maintain a record of the events as a basis for managerial decisions.

Use—

1. To provide information to the Department of Labor for the purpose of determining whether a claimant qualifies for compensation and to what extent qualification applies.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. May 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.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court on administrative body.

6. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

. (Temp.) Disclosure of information about plan members may be made to respective health benefit carriers for a one-time comparison with the carriers' claim/payment files. (Note: This routine use will be in effect for a period of one year from its effective date.)

POLICIES AND PRACTICES STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Printed forms and correspondence (Note: In some cases, the USPS by agreement with the Department of Labor (DOL), temporarily stores original case files. These files are considered to be DOL records to which DOL rather than USPS regulations apply.) Continuation of pay and DOL charge-back information is stored on computer media.

RETRIEVABILITY:

Records are retrieved alphabetically by name and social security number.

SAFEGUARDS:

Maintained in locked filing cabinets within the exclusive custody of the injury compensation control point. Automated records are protected through computer password security, encryptions, and/or a computer software security system.

RETENTION AND DISPOSAL:

OWCP case files are maintained for five years after employee has left the Postal Service, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, and APMG, Finance Department, Headquarters.

NOTIFICATION PROCEDURES:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System manager.

RECORD ACCESS PROCEDURE:

See NOTIFICATION PROCEDURE above. (Note: The original case file (in most cases) is maintained by OWCP and must be requested from that organization as provided for under

Department of Labor Privacy Act System DOL/EAS–13.)

CONTESTING RECORD PROCEDURES:

The contents of OWCP records may be contested only by contacting OWCP as provided for under the Department of Labor Privacy Act System DOL/EAS–13.

RECORD SOURCE CATEGORIES:

Information is obtained from the claimant, the supervisor, witnesses, physicians, and Department of Labor.

USPS 120.099

SYSTEM NAME:

Personnel Records—Injury Compensation Payment Validation Records, 120.099.

SYSTEM LOCATION:

All postal facilities having injury compensation units, National Headquarters and Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Postal Service employees who have received or are receiving injury compensation program payments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lists of individuals whose names appear in two systems of records, research case records, and remuneration records related to injury compensation paid to current and former employees by the Postal Service. (See "Retention and disposal" below for cases in which these records are converted to investigative files.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1001, 39 U.S.C. 1005.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Purpose—This information is used to identify instances in which improper double payments have been or are being made to Postal Service employees who have filed injury/sickness compensation claims and to maintain records of this event as a basis for: detecting fraud; seeking remuneration and/or legal actions; reporting the extent of double payments nationwide; and for proposing corrective legislation.

Use:

1. (Temp.) Disclosure of information about plan members may be made to respective health benefit carriers for a one-time comparison with the carriers' claim/payment files. (Note: This routine use will be in effect for a period of one year from its effective date.)

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. May 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.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administration body.

6. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Computer reports, paper records, correspondence and research records. (Note: These files are considered to be USPS records to which USPS regulations apply.)

RETRIEVABILITY:

Records are retrieved by social security number.

SAFEGUARDS:

These restricted files are maintained in locked file cabinets. Access to automated records is protected through a computer security system, file encryption, and/or password protection.

RETENTION AND DISPOSAL:

a. Computer reports.

(1) Initial data collection reports and master file/tape are maintained for 3 years and destroyed by depersonalization.

(2) Subsequent reports containing affirmative identifications become part of research case records.

b. Research case records (copies of records from other system—includes computer reports, paper records, and correspondence).

(1) If research determines nonapplicability, destroy by burning or shredding, 6 months after such determination is made.

(2) If research determines applicability, research records then become (a) part of an investigative case file and fall within system USPS 080.010, Inspection Requirements Investigative File System (refer to USPS 080.010 for retention and disposal instructions), or (b) a remuneration case file which is maintained for 2 years and destroyed by burning or shredding.

Extra copies of research records are destroyed at the time a remuneration or investigative case file is created.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees or former employees wishing to know whether information about them is maintained in this system or records should address inquires to the System manager.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is obtained from Postal Service injury compensation case files, payment records and employment records as found in USPS Privacy Act Systems: USPS 050.020, 120.070, and 120.098; Social Security Administration death files; and pertinent Federal health benefit carriers' claim/payment files.

USPS 120.110

SYSTEM NAME:

Personnel Records—Preemploy Investigation Records, 120.110

SYSTEM LOCATION:

Post Offices/Facilities; Regional and National Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal Employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Replies from character references, former employers and local police records, drug history records and other investigative reports used to determine suitability for employment. Other

records filed with these are: Civil Service Commission records (privacy system—CSC/GOVT–4) compiled through a National Agency Check and Inquiry (NACI) and forwarded to the USPS for assistance in making a hiring decision.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 USC 410(b), 1001.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To determine suitability for employment.

Use—

1. To any agency from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

2. In the event of an indication of any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by 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 charge with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; such referral shall also include, and be deemed to authorize (1) any and all appropriate and necessary uses of such records in a court of law and before an administrative board or hearing, including referrals related to probation and parole matters, and (2) such other interagency referrals as may be necessary to carry out the receiving agency's assigned law enforcement duties.

3. To a Federal agency, in response to its request, in connection with 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 matters.

4. May 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.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congresssional office made at the request of that individual.

6. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

7. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

**POLICIES AND PRACTICES FOR STORING, RETRIEWING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Information is maintained on preprinted forms and correspondence.

**RETRIEVABILITY:**

Information is indexed alphabetically by name.

**SAFEGUARDS:**

Information is stored in locked file cabinets accessible to those with an appropriate security clearance.

**RETENTION AND DISPOSAL:**

a. If an applicant is found unsuitable for employment, or if an employee is found unsuitable after he has begun work, all local investigative records which support the decision of unsuitability will be retained for a period of two years from the date action was taken to deny or terminate employment. b. If an employee is initially found suitable for employment as result of a local investigation, and is ultimately retained upon receipt of the NACI report from the Civil Service Commission, the local investigative reports will be retained for a period of two years from the date the employee is initially found suitable for employment. c. CSC NACI reports are retained in the same fashion as local investigative records.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Department, Headquarters.

**NOTIFICATION PROCEDURES:**

Apply to the head of the postal facility where employed giving name. Headquarters employees should submit requests to the System Manager.

**RECORD ACCESS PROCEDURES:**

a. Local Investigative records—Apply to the head of the postal facility where employed. Headquarters employees should submit requests to the System manager. b. CSC NACI reports—Apply to the Civil Service Commission as instructed by privacy system CSC/GOVT–4.

**CONTESTING RECORD PROCEDURES:**

See Record access procedures above.

**RECORD SOURCE CATEGORIES:**

Information is obtained primarily from local police records, former employers, and character reference.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Reference 39 CFR 266.9 for details.

**USPS 120.120**

**SYSTEM NAME:**

Personnel Records—Personnel Research and Test Validation Records, 120.120.

**SYSTEM LOCATION:**

USPS National Tests Administration Center, Los Angeles, CA; USPS National and Regional Headquarters; Bulk Mail Centers; District Offices; and the Oklahoma City Computer Center.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Applicants for postal employment and USPS employee applicant for reassignment and/or promotion.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Computer scannable information and the applicants' answers to the test questions. Reports and analyses that have resulted from comparison of information from this system and from system USPS 120.121.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401, 1001.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide verification of the applicants' test score. Data are collected whenever an examination is given and are used for construction, analysis, and validation of written tests;

for research on personnel measurement and selection methods and techniques and research on personnel management practices such as performance evaluation or productivity. Race and national origin data are used to evaluate any adverse impact of the selection process. Use of these race and national origin data is limited to research projects and test validation conducted by the Postal Service. No personnel decisions are made in the use of these research records. Many data are collected under conditions assuring their confidentiality. This confidentiality will be protected. Personnel information in this system of records is used by the personnel research staff in the Office of Personnel Management of the U.S. Postal Service.

Use—

1. To disclose information to the Equal Employment Opportunity Commission for use in determining the existence of adverse impact in the total selection process, in reviewing allegations of discrimination, or in assessing the status of compliance with Federal law.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, or order issued pursuant thereto.

3. To request information from a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information 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.

4. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or 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 that matter.

5. May 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.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Answer sheets in handwritten form and computer storage media.

**RETRIEVABILITY:**

This system of records is indexed by employee name, batch number or employee's date of examination and examination center administering the examination.

**SAFEGUARDS:**

These records are maintained in closed file cabinets in a secure facility.

**RETENTION AND DISPOSAL:**

Records are maintained for five years. Paper records are destroyed by shredding and computer records by erasing.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Persons wishing to know whether this system of records contains information on them should address inquiries to the head of the Test Administration Center where they were examined. Inquiries should contain full name, social security number, date of examination, examination number, and place of participation in the examination.

**RECORD ACCESS PROCEDURES:**

See "NOTIFICATION" above.

**CONTESTING RECORD PROCEDURES:**

See "NOTIFICATION" above.

**RECORD SOURCE CATEGORIES:**

Applicants's test answers.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Reference 39. CFR 266.9 for details.

**USPS 120.121**

**SYSTEM NAME:**

Personnel Records—Applicant Race, Sex, National Origin and Disability Status Records, 120.121.

**SYSTEM LOCATION:**

USPS National Test Administration Center, Los Angeles, CA.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Applicants for USPS entry-level examinations, including USPS employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual's name, Social Security Number, date of birth, lead office installation number, race, sex, national origin and disability status data.

**AUTHORITY FOR MAINTENACE OF THE SYSTEM:**

39 U.S.C. 401, 101 and 5 U.S.C. 7201.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide the Postal Service with the ability to assess the impact of personnel selection decisions on applicants in each racial, sex, national origin and disability category. Note: These data are maintained only on those applicants who voluntarily provide it and under conditions assuring that the individual's self-identification as to race, sex, national origin, and disability status does not accompany that individual's application when it is under consideration by a selecting official. Data are collected via a research questionnaire on an applicant-by-applicant basis and used to produce summary descriptive statistics and analytical studies to evaluate personnel/organizational measurement and selection methods; implement and evaluate USPS affirmative action programs; determine any adverse impact in the overall personnel selection process; identify categories of individuals for personnel research; and for related work force studies.

Use—

1. To disclose information to the Equal Employment Opportunity Commission for use in determining the existence of adverse impact in the total selection process, in reviewing allegations of discrimination, or in assessing the status of compliance with Federal law.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent

in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Disclosure may be made in response to the order of a court of competent jurisdiction.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, or order issued pursuant thereto.

6. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative and clearance process as set forth in that Circular.

7. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Paper files, magnetic tape and disks.

**RETRIEVABILITY:**

Records are retrieved by name and Social Security Number.

**SAFEGUARDS:**

Records are maintained in lockable filing cabinets in a secured room. Access is further restricted by computer passwords.

**RETENTION AND DISPOSAL:**

Records are retained for five years. Manual records are shredded or burned and magnetic tapes or disks are erased. Statiscal records (without individual identifiers) are maintained for as long as needed for the purpose of conducting longitudinal studies.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Individuals wishing to know whether this system of records contains information about them should address inquiries to the head of the Test Administration Center where they are examined. Inquiries should be written, signed, and contain full name, Social Security Number, type of examination, examination number, and the date and place of participation in the examination.

**RECORDS ACCESS PROCEDURE:**

See Notification procedure above. Requests for access must also follow the USPS Privacy Act regulations regarding access to records and verification of identity (39 CFR 266.6).

**CONTESTING RECORD PROCEDURES:**

See Notification procedure above.

**RECORD SOURCE CATEGORIES:**

Information is provided by applicants taking entrance examinations.

**USPS 120.130**

**SYSTEM NAME:**

Personnel Records—Postmaster Selection Program Records. 120.130

**SYSTEM LOCATION:**

USPS Headquarters; Regional Headquarters

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

USPS employees desiring to be considered for promotion to Postmaster position.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, address, date of birth, social security number, education summary, postal background other employment experience, Postal Inspector's Investigative Memorandum, and other pertinet personal information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 USC 401, 1001.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide Regional Management Selection Board and the National Management Selection Board with fair and impartial information to match requirements for Postmaster position to the best qualified candidate.

Use—

1. May 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.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Printed, typed or handwritten forms.

**RETRIEVABILITY:**

Applicant's name and post office for which application was made.

**SAFEGUARDS:**

Locked file cabinets in a secured facility.

**RETENTION AND DISPOSAL:**

Records for positions 24 and above are maintained at National Headquarters for two years. All records are maintained at Regional Headquarters for five years. Records are destroyed by shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Department.

**NOTIFICATION PROCEDURE:**

Employees wishing to know whether this system of records contains information on them should address inquiries to the Regional Postmaster General of the region in which the application was made. Inquiries should contain full name, the postal facility to which application was made, title and place of employment.

**RECORD ACCESS PROCEDURES:**

See Notification procedure above.

**CONTESTING RECORD PROCEDURES:**

See Notification procedure above.

**RECORD SOURCE CATEGORIES:**

Information is obtained from the employee, postal background personnel data, and from forms completed by the employee.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Reference 39 CFR 266.9 for details.

**USPS 120.140**

**SYSTEM NAME:**

Personnel Records—Program for Alcoholic Recovery (PAR), 120.140

**SYSTEM LOCATION:**

PAR offices, regional headquarters and Postal Data Centers.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

USPS employees who volunteer for or are referred to the Program.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Number of counseling contracts and leave usage while participant in the Program, name and personal information necessary to assit employees in a Program of recovery.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide Counselors with information to maintain caseload and follow-up counseling of individuals under the Program. Used as a management date source for statistical reporting on the Program.

**USE—**

None.

**POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Printed froms and paper files. Sick leave and Leave Without Pay information is stored on computer media.

**RETRIEVABILITY:**

Employee name and case number.

**SAFEGUARDS:**

These restricted files are maintained in locked file cabinets with limited access to PAR personnel and in secured facilities. Automated records are protected through computer password security and encoding of personal identifiers.

**RETENTION AND DISPOSAL:**

1. Case card is destroyed six years following close of file. 2. Correspondence and reports are destroyed three years (field) or ten years (Headquarters) after close of case file. 3. Historical case records cared is destroyed six years after close of case file. 4. Case files are destroyed three years after recovery or one year after participant terminates enrollment. Paper records are destroyed by shredding and computer tape/disk records are destroyed by erasing.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Dept., Headquarters.

**NOTIFICATION PROCEDURE:**

Employees participatng in the Program should address inquiries to the head of the facility where participating in the Program. Inquiries should contain employees name and location of employment. Headquarters employees should submit requests to the SYSTEM MANAGER.

**RECORD ACCESS PROCEDURES:**

See NOTIFICATION above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION above.

**RECORD SOURCE CATEGORIES:**

The participating employee, PAR counselor and the referring source.

**USPS 120.151.**

**SYSTEM NAME:**

Personnel Records—Recruiting, Examining and Appointment Records, 120.151.

**SYSTEM LOCATION:**

U.S. Postal Service personnel offices and/or other offices within Postal Service facilities authorized to engage in recruiting or examining activities or make appointments to positions.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Job applicants.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Personal and professional resumes, personal applications, test scores, academic transcripts, letters of recommendation and registers of eligibles.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401, 1001.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide managers and personnel officials information in recruiting and recommending appointment of qualified persons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local 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.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a 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.

3. Disclosure may be made to a Federal agency in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May 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.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issued involved in the complaint.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

**RETRIEVABILITY:**

Job applicant name and/or social security number.

**SAFEGUARDS:**

Paper records are maintained in closed filing cabinets under scrutiny of designated managers. Computer records are maintained in secured facilities.

**RETENTION AND DISPOSAL:**

Records are retained for period of usefulness which varies by type of record and ranges from one day to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. At the end of period of usefulness, records are destroyed with the exception of lists of eligibles and examination cards which are transferred to the National Personnel Records Center, St. Louis, Mo. Certain records of examination are maintained as part of USPS 120.120, Personnel Records—Personnel Research and Test Validation Records.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Persons wishing to know whether information is contained on them in this system of records should address inquiries to the head of the facility to which job application was made. Inquiries should contain full name, social security number, and if applicable, approximate date of application submitted and residence.

**RECORD ACCESS PROCEDURES:**

See NOTIFICATION PROCEDURE above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION PROCEDURE above.

**RECORD SOURCE CATEGORIES:**

Individual, school officials, former employers, supervisors, named references.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Reference 39 CFR 266.9 for details.

**USPS 120.152**

**SYSTEM NAME:**

Personnel Records—Career Development and Training Records, 120.152.

**SYSTEM LOCATION:**

Postal Education and Development Centers (PEDCs) and other facilities within the Postal Service where career development and training activities are conducted or authorized.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former postal employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Career development records and applications for and records of postal and non-postal training. Also contains examination and skills bank records, including records of special qualifications, skills or knowledge; career goals; education and work histories or summaries.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401.1001.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide managers and supervisors with decisionmaking information to employee career development, training and assignment.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

2. To request information from a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement or other pertinent information, relevant to a 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.

3. Disclosure may be made to a Federal agency, in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant, or other benefit to the extent that the information is relevent and necessary to the agency's decision on that matter.

4. May 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.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested record are needed by the investigator in the performance of his duty in investigate a discrimination issue involved in the complaint.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

**RETRIEVABILITY:**

Employee name and social security number.

**SAFEGUARDS:**

Paper records are maintained in closed filing cabinets under scrutiny of designed managers. Computer records are maintained in secured facilities.

**RETENTION AND DISPOSAL:**

Records are retained for a period of usefulness which varies by type of record and ranges from one to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. At the end of period of usefulness, records are destroyed. Certain records of examinations are maintained as part of

USPS 120.120. Personnel Records—Personnel Research and test Validation Records.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Department, APMG, Real Estate and Buildings Department, and APMG, Customer Services Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Current and former field employees wishing to know whether information is contained on them in this system of records should address inquiries to the head of the appropriate employment facility. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name and social security number.

**RECORD ACCESS PROCEDURES:**

See NOTIFICATION PROCEDURE above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION PROCEDURE above.

**RECORD SOURCE CATEGORIES:**

Information is obtained from the subject, subject's employment records and his/her supervisor.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Reference 39 CFR 266.9 for details.

USPS 120.153

**SYSTEM NAME:**

Personnel Records—Individual Performance Evaluation/Measurement, 120.153.

**SYSTEM LOCATION:**

U.S. Postal Service facilities where individual performance evaluation/measurement activities are conducted.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former postal employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual performance evaluation and measurement records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 USC 401, 1001.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide managers and supervisors with decision making information for training needs, promotion and assignment considerations, or other employee/job related actions.

1. To refer where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, 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.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a 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.

3. Disclosure may be made to a Federal agency in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May 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.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issued involved in the complaint.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Paper filed, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

**RETRIEVABILITY:**

Employee name and social security number.

**SAFEGUARDS:**

Paper records are maintained in closed filing cabinets under scrutiny of designated managers. Computer records are maintained in secured facilities.

**RETENTION AND DISPOSAL:**

Records are retained for period of usefulness which varies by type of record and ranges from one to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. PES Merit Evaluation forms are physically maintained on the left side of the Official Personnel Folder (USPS 120.070) for a period of two years. At the end of the period of usefulness records are destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Postmaster General having jurisdiction over the functional or administrative area which developed the particular performance evaluation/measurement procedure.

**NOTIFICATION PROCEDURE:**

Current and former field employees wishing to know whether information is maintained on them in this system of records should address inquiries to the head of the appropriate employment facility. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name and social security number.

**RECORD ACCESS PROCEDURES:**

See NOTIFICATION PROCEDURE above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION PROCEDURE above.

**RECORD SOURCE CATEGORIES:**

Information is obtained from the subject, subject's employment records and his/her supervisor, or program director.

**USPS 120.180**

**SYSTEM NAME:**

Personnel Records—Skills Bank (Human Resources Records), 120.180.

**SYSTEM LOCATION:**

Maintained by various postal facilities as determined by management.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Skills bank records are maintained on different categories of USPS employees, Women, PCES and employees in various job categories.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Employee name, social security number, address, job position, sex, educational background, work history, salary history, skills, licenses, language, career preferences, geographical preferences, special achievements, merit awards, project assignments, benefits, and other personal information. (The various systems in existence may contain more or less information than specified herein.)

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Public Law 92–261, 39 USC 401, 1001.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—Used by USPS management to place employees in new positions, and to assist in career planning and training in general; also used by management to provide statistics for management of personnel. /Use—

1. May 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.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Preprinted forms, magnetic tape and disk files, computer reports, and microfiche.

**RETRIEVABILITY:**

Name and social security number.

**SAFEGUARDS:**

Locked file cabinets, controlled access, computer password authentication, magnetic tape library, physical security.

**RETENTION AND DISPOSAL:**

Paper records will be destroyed 1 or 2 years after information is successfully entered into the system depending upon the particular program involved, by shredding or burning. Automated information will be erased 1 year after employee is terminated or is no longer in the particular job category.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Employees wishing to know whether such a system exists at their place of employment or whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name, social security number, and place of employment.

**RECORD ACCESS PROCEDURES:**

See NOTIFICATION PROCEDURES above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION PROCEDURES above.

**RECORD SOURCE CATEGORIES:**

Information is obtained directly from employee and USPS personnel forms and reports.

**USPS 120.190**

**SYSTEM NAME:**

Personnel Records—Supervisors Personnel Records, 120.190.

**SYSTEM LOCATION:**

Any Postal facility.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

USPS Employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records consist of summaries or excerpts from the following other USPS personnel systems: 120.036, 120.070, 120.150, 120.180, 120.210; as well as records of discipline. In addition, copies of other Postal Service records and records originated by the supervisor may be included at the supervisor's discretion.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 USC 401, 1001.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To enable supervisors to efficiently manage assigned personnel.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

3. Disclosure of records of discipline may be further made to a labor organization pursuant to the National Labor Relations Act upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Records of discipline may become part of USPS 120.070 and would therefore be subject to disclosure under the routine uses of that system of records.

5. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Paper files, index cards, magnetic tape and disk, computer printouts.

**RETRIEVABILITY:**

Indexed by employee name.

**SAFEGUARDS:**

Paper documents/index cards are locked in supervisors desk or filing cabinets. Computer readable media are maintained in secured data processing facilities.

**RETENTION AND DISPOSAL:**

1. Except for those records of discipline described in subparagraphs 2, 3, and 4 below, supervisor's personnel records may be retained for the duration of the supervisor-employee working relationship. Upon separation of an employee from the Postal Service, the entire file pertaining to that employee is destroyed by burning or shredding within 30 days.

2. Counseling Records shall be destroyed after one year if there has been no disciplinary action initiated against the employee during that period.

3. Letters of Warning shall be destroyed after two years if there has been no disciplinary action initiated against the employee during that period.

4. A record of counseling, a letter of warning, or other disciplinary record, which has been relied upon in a subsequent suspension or discharge, will be retained in this system in accord with subparagraphs 1 through 3 above. Such records also will be permanently filed in USPS 120.070, if the subsequent suspension or discharge ultimately is sustained or modified in a manner requiring the preparation of a Form 50.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Employee Relations Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Employees wishing to know whether this system of records contains information on them should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System Manager.

**RECORD ACCESS PROCEDURES:**

See Notification procedure above.

**CONTESTING RECORD PROCEDURES:**

See Notification procedure above.

**RECORD SOURCE CATEGORIES:**

Other personnel records systems, supervisor notes, employees, postal customers.

**USPS 120.210**

**SYSTEM NAME:**

Personnel Records—Vehicle Maintenance Personnel and Operators Records, 120.210.

**SYSTEM LOCATION:**

Vehicle Service Operations at Post Offices, Sectional Centers, District Offices, Regional Offices, Headquarters, Bulk Mail Centers, Postal Data Centers and Automatic Data Processing Centers.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

USPS employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Employee workload, work schedule, performance analysis and work habits. Employee name, age, length of service, physical condition, vehicle accidents, driving citations, safety awards records, driver license revocation and suspension, driving habits, vehicle training, results of driving tests, qualifications to drive vehicles.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To provide local post office managers, supervisors and Director of Fleet Management Operations with information to adjust workload, change schedules, change type equipment operated, lists of equipment assigned to employee, and used as a basis for corrective action or safe driving awards.

Use—

1. To provide GSA and USPS driver credentials.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

3. May 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 state of the legislative coordination and clearance process as set forth in that Circular.

4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

6. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Printed forms, and computer tapes.

**RETRIEVABILITY:**

Employee name, vehicle number, route number, work order number and facility name.

**SAFEGUARDS:**

Records are maintained in closed file cabinets in secured facilities.

**RETENTION AND DISPOSAL:**

a. Records pertaining to postal-owned vehicle driver's individual testing and driver's records are retained for three years after separation of the employee and destroyed by shredding.

b. Accident reports are retained for three years and destroyed by shredding.

c. Inspection reports are retained for two years after the date of the report and destroyed by shredding.

d. Other records are retained as long as the individual is employed as a vehicle operator, held for one year from the date of reassignment and destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Delivery Services Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Inquiries should contain employee's full name, social security number, route number, work station and facility where employed.

**RECORD ACCESS PROCEDURES:**

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

The employee, medical doctors, driver examiner/instructor state vehicle departments and supervisors.

USPS 120.230

SYSTEM NAME:

Personnel Records—Adverse Action Appeals (Administrative Litigation Case Files) 120.230.

SYSTEM LOCATION:

Law Department, Regional and National Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees involved in Veterans' Appeal and other adverse action appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Formal pleadings and memoranda of law; (b) other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 409(d) .

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Transferred to Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper documents and computer tape/disk.

RETRIEVABILITY:

By name of litigant(s).

SAFEGUARDS:

Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Cousnel, Law Department, National Headquarters.

RECORD ACCESS PROCEDURES:

See "System Manager" above.

CONTESTING RECORD PROCEDURES:

See "System Manager" above.

RECORD SOURCE CATEGORIES:

(a) Employees involved in Veterans Appeals and other adverse actions appeals; (b) Counsel(s) or other representative(s) for parties in administrative litigation other than Postal Service; (c) Other individuals involved in appeals. Source documents include the formal case file, and other records relevant to the case.

USPS 120.240

SYSTEM NAME:

Personnel Records—Garnishment Case Files, 120.240.

SYSTEM LOCATION:

Law Department, Headquarters, Regional Counsel Offices, Regional Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees involved in garnishment cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Formal pleadings and memoranda of law; (b) other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 409(d)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Transferred to Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper documents and computer tape/disk.

RETRIEVABILITY:

By name of litigant(s) of case and State of court action.

SAFEGUARDS:

Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Counsel, Law Department, National Headquarters.

RECORD ACCESS PROCEDURES:

See "System Manager" above.

CONTESTING RECORD PROCEDURES:

See "System Manager" above.

RECORD SOURCE CATEGORIES:

(a) Employees involved in garnishment cases; (b) Counsel(s) or other representative(s) for parties other than Postal Service; (c) Other individuals involved in garnishment cases. Source documents include internal memoranda and court related documents.

USPS 130.010

SYSTEM NAME:

Philately—Ben Franklin Stamp Club Sponsors and Direct Mail Responders List, 130.010

SYSTEM LOCATION:

Customer Services Department, Headquarters, and at a contractor computer center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adult sponsors of stamp clubs for youth groups as well as club presidents of adult groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of club sponsors or presidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—As an adjunct to a philatelic program, lists of club sponsors or presidents of stamp clubs are used by Sectional Center personnel and District personnel as well as individual postmasters as follows:

1. To assist sponsors in forming stamp clubs.
2. Making contact with clubs to assist in program presentation and USPS cooperation at stamp shows and philatelic exhibits.
3. Responsiveness to philatelic sales requests.
4. Determining USPS needs for films, graphics, and publications related to philately.
5. To mail newsletters to stamp club sponsors and club presidents.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and computer tape/disk.

RETRIEVABILITY:

Indexed by name of individual and ZIP Code within the club or stamp group to which he/she is associated.

SAFEGUARDS:

Paper records are maintained in locked steel file cabinets in a secured facility; computer media are stored in a fire resistant and secured facility.

RETENTION AND DISPOSAL:

Records are maintained on a year-to-year basis subject to reverification each year. At the end of retention period, paper records are shredded and computer tape/disk records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Inquiries should contain full name, address, and the club or stamp group with which he/she is associated.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual to which the record refers.

USPS 130.040

SYSTEM NAME:

Philately—Philatelic Product Sales and Distribution, 130.040.

SYSTEM LOCATION:

USPS Headquarters, Customer Services Department and at a contractor site.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who have initiated correspondence expressing an interest in philately by (1) responding to various philatelic product sales promotion programs by submitting order forms, business reply cards, or cut outs from posters and promotional literature, (2) providing postal clerks with name and address information to receive future philatelic product announcements, (3) opening subscription accounts for philatelic products, or (4) requesting products in unsolicited correspondence, such as letters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customer/subscriber name and account number, address, funds on deposit, remittance type and amount order/product specifications, order history; also, speical lists identifying individuals who have submitted bad checks, special services customers/subscribers, and individuals who have registered multiple service complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—(1) to operate a subscription service for customers who remit money for a particular philatelic product or products; (2) to maintain a file to send philatelic product announcements and sales literature to customers or subscribers; (3) to serve, as a source for statistical data for research and market

analysis, billing and inventory data, and mailing basis for product shipment and (4) to identify discrete groups of customers/subscribers for better order control and service.

Use—

1. Disclosure may be made where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Maintained in original typed or handwritten form, or microform, and on magnetic tape or disk and computer printouts.

**RETRIEVABILITY:**

Records are indexed by customer/subscriber name and by account number, if assigned.

**SAFEGUARDS:**

Paper and microform records are maintained in closed filing cabinets under general scrutiny of personnel of the Phalatelic Sales Division and the Building Security Guard Force, and when maintained on magnetic tape and disk, the information is protected by ADP physical, technical software and administrative security of the Headquarters Data Center or by contractors providing similar protection which is subject to the audit and inspection of the USPS Inspection Service.

**RETENTION AND DISPOSAL:**

ADP and microform records are maintained for three years after the individual has failed to make a purchase or has indicated no other interest. ADP records are obliterated after their period of usefulness; microform records are incinerated. Correspondence and other paper documents are retained for 3 years and then destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Customer Services Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Inquiries should contain full name and address.

**RECORD ACCESS PROCEDURES:**

See Notification procedure above.

**CONTESTING RECORD PROCEDURES:**

See Notification procedure above.

**RECORD SOURCE CATEGORIES:**

Information is obtained directly from the individual as is described in "Category of Individuals Covered by the System" above.

**USPS 140.020**

**SYSTEM NAME:**

Postage—Postal Meter Records, 140.020.

**SYSTEM LOCATION:**

Post Offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Meters users.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Customer name and address, meter update activity, schedule for meter upgradings for on-site meter settings, license application, and transaction documents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401, 404.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—To enable responsible administration of postal meter activities.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

2. To disclose identity and address of meter user and identity of agent of user to any member of public upon request.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Printed forms.

**RETRIEVABILITY:**

Records are indexed by customer name and by numeric file of postage meters.

**SAFEGUARDS:**

Records are maintained in closed file cabinets in secured facilities.

**RETENTION AND DISPOSAL:**

Records are maintained for one year after final entry or the duration of the license and then destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Rates and Classification Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the local postmaster from which license was obtained supplying name and meter number.

**RECORD ACCESS PROCEDURES:**

See "NOTIFICATION" above.

**CONTESTING RECORD PROCEDURES:**

See "NOTIFICATION" above.

**RECORD SOURCE CATEGORIES:**

Information is obtained from the individual and officials making entires to reflect activities.

**USPS 150.010**

**SYSTEM NAME:**

Records and Information Management Records—Information Disclosure Accounting Records (Freedom of Information Act), 150.010.

SYSTEM LOCATION:

Records Officer, USPS Headquarters, and records Custodians at all USPS facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees and citizens requesting information under the Freedom of Information Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of requestor and the type of information requested.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 412, 5 USC 552; Public Law 93–502.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Those records are kept in order to determine the status of information requested and to facilitate the processing of requests.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files.

RETRIEVABILITY:

Individuals name and date of request.

SAFEGUARDS:

Locked file drawers and access control.

RETENTION AND DISPOSAL:

Records are maintained by Custodians and the Records Officer for a period of two years. The Headquarters Library and General Counsel keep permanently copies of legal proceedings and appeals related to these records.

SYSTEM MANAGER(S) AND ADDRESS:

Postal Service Records Officer, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the Custodian at the facility where request was sent. Inquiries should contain full name and date of request.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual making the request.

USPS 150.015

SYSTEM NAME:

Records and Information Management Records—Freedom of Information Appeals System. 150.015

SYSTEM LOCATION:

USPS National Headquarters. Law Department.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

The system encompases all individuals who submit appeals under the Freedom of Information Act from denials of access to or copies of records maintained by the Postal Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of copies of all correspondence relating to appeals from the denials of requests for access to or copies or records pursuant to the Freedom of Information Act, of pleadings on civil actions arising under the Act, and of other documents incidential thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Purpose—To enable the General Counsel to carry out his duties as appellate authority and to comply with reporting requirements. Use—

1. These records are used to provide information and records to the Department of Justice in its coordination of responses to requests for information and its representation of the Postal Service in civil actions, and to prepare reports required by 5 USC 552(d).

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are stored in paper folders.

RETRIEVABILITY:

Alphabetically, by name of the requester except in those instance where a requester has an appeal filed on his behalf by an attorney. In those cases, the attorney's name might appear as the requester appellant.

SAFEGUARDS:

These records are stored in locked filed cabinets.

RETENTION AND DISPOSAL:

These records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, National Headquarters.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager above and should contain the name of the requester and the name of that person's attorney.

USPS 150.020

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains, and that person's attorney.

SYSTEM NAME:

Records and Information Managment Records—Information Disclosure Accounting Records (Privacy Act), 150.020.

SYSTEM LOCATION:

Records Officer, USPS Headquarters and records Custodians at all USPS facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any USPS employee or citizen who makes an inquiry under the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of inquirer and the type of information requested and USPS response thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401; Public Law 93–579,88 Statute 1896.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—These records are to provide information related to requestors of personal information under the Privacy Act.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Paper files.

**RETRIEVABILITY:**

Requesters' name and date of inquiry.

**SAFEGUARDS:**

Locked file drawers and access control.

**RETENTION AND DISPOSAL:**

Request letters and related correspondence are retained for two years. Accountings of disclosures are retained for five years or the life of the disclosed record, whichever is longer. All records are destroyed by burning or shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

Postal Service Records Officer, Headquarters.

**NOTIFICATION PROCEDURE:**

Persons wishing to know whether information about them is maintained in this sytem of records shold address inquiries to the Custodian at the facility where request was sent. Inquiries should contain full name, and date of the request.

**RECORD ACCESS PROCEDURES:**

See "NOTIFICATION" above.

**CONTESTING RECORD PROCEDURES:**

See "NOTIFICATION" above.

**RECORD SOURCE CATEGORIES:**

Information is obtained from the individual making the request.

**USPS 160.010**

**SYSTEM NAME:**

Special Mail Services—Insured and Registered Domestic Mail Inquiry and Application for Indemnity Records, 160.010.

**SYSTEM LOCATION:**

Rates and Classification Department, Headquarters, Postal Data Center, St. Louis, MO, and Post Offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Insured and registered domestic mail claimants/inquiries including mail senders and addresses.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name and address of mail sender and addressee; declaration of claimant/inquirer, claim/inquiry status information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401, 404.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—This information is used in responding to inquiries on the status of domestic insured and registered mail, and in the adjudication of claims related to such mail.

Use—

1. To refer where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

2. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

4. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Handwritten and typed forms, microfilm, computer readable media and printouts.

**RETRIEVABILITY:**

Claimant/inquirer name, case number, registered article number.

**SAFEGUARDS:**

Handwritten and typed forms are maintained in steel file cabinets with use limited to claims personnel. Computer readable media are stored in protected areas, and access to the media is confined to authorized data processing personnel.

**RETENTION AND DISPOSAL:**

Domestic inquiries are maintained for two years. Claim records are maintained for one year at St. Louis Postal Data Center and then transferred to the Federal Records Center and maintained for another three years. All records are destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Rates and Classification Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where the insured or registered domestic claim was filed. If claim has been filed, inquiry should include claim number, date of claim, insured or registered number of article mailed.

**RECORD ACCESS PROCEDURES:**

NOTIFICATION PROCEDURE above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION PROCEDURE above.

**RECORD SOURCE CATEGORIES:**

Information from the individual completing the claim/inquiry form.

**USPS 160.020**

**SYSTEM NAME:**

Special Mail Services—Insured and Registered International Mail Inquiry and Application for Indemnity Records, 160.020.

**SYSTEM LOCATION:**

Rates and Classification Department, USPS Headquarters; Postal Data Center, St. Louis, MO; and International Adjusting Offices in Chicago, New York, New Orleans and San Francisco.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Insured and registered international mail claimants/inquirers, including mail senders and addresses, declaration of claimants/inquirers, claim/inquiry status information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used in responding to inquiries regarding international mail, and in the adjudication of insured and registered international mail claims.

Use—

1. To refer where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

2. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

5. To refer an international mail inquiry or claim to the appropriate foreign postal authority when required for claim resolution.

6. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Handwritten and typed forms, microfilm, computer readable media and printouts.

RETRIEVABILITY:

Claimant/inquirer name, case number, registered article number.

SAFEGUARDS:

Handwritten and typed forms are maintained in steel file cabinets with use limited to claims personnel. Computer readable media are stored in protected areas, and access to the media is confined to authorized data processing personnel.

RETENTION AND DISPOSAL:

International inquiries are maintained for three years. Claim records are maintained for one year at St. Louis Postal Data Center and then transferred to the Federal Records Center and maintained for another three years. All records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rate and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where the insured or registered foreign mail claim was filed. If claim has been filed, inquiry should include claim number, date of claim, insured or registered number of article mailed.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information from the individual completing the claim/inquiry form.

USPS 160.030

SYSTEM NAME:

Special Mail Services—Express Mail Service Insurance Claims for Loss Delay and Damage, 160.030.

SYSTEM LOCATION:

St. Louis Postal Data Center, St. Louis, MO.

CATEGORIES OF RECORDS IN THE SYSTEM:

Postal Service forms and correspondence related to the claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used in the adjudication of express mail service claims for loss, delay and damage.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

2. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. May 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Stored in file cabinets in original, typed, handwritten, copied or printed form.

RETRIEVABILITY:

Claims are ordered by date of mailing but are retrieved by name of claimant through visual scanning.

SAFEGUARDS:

Maintained in steel file cabinets within the exclusive custody of Express Mail Marketing personnel in the Customer Services Department and Claims Personnel in the Rates and Classification Department.

RETENTION AND DISPOSAL:

Records are retained for one year then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rates and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Claimants wishing to know whether information about them is maintained in this system of records should address inquiries to the SYSTEM MANAGER.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

**RECORD SOURCE CATEGORIES:**

Information is obtained from the claimant or designated representative.

**USPS 190.030**

**SYSTEM NAME:**

Litigation Records—Labor Law Topic Files, 190.030.

**SYSTEM LOCATION:**

Law Department, National Headquarters.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals involved in employee and labor relations matters.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(a) Miscellaneous notes, memoranda of law, and case analyses prepared by Postal Service attorneys and personnel; (b) Other relevant documents; (c) Correspondence and telephone records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401, 409(d).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.
3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
4. Transferred to the Department of Justice, when needed by that department to perform properly its duties as legal representative of Postal Service.
5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Paper documents and computer tape/disk.

**RETRIEVABILITY:**

By topic title or name of individual.

**SAFEGUARDS:**

Topic folders are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals and tape/disk files are located in a secured area.

**RETENTION AND DISPOSAL:**

Selected records are maintained on an active basis until subject matter has no information value, and on inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

**SYSTEM MANAGER(S) AND ADDRESS:**

General Counsel, Law Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Persons interested in reviewing records within specific files should submit their name and file topic title, if known, to the General Counsel, Law Department, Headquarters.

**RECORD ACCESS PROCEDURES:**

See Notification Procedure above.

**CONTESTING RECORD PROCEDURES:**

See Notification Procedure above.

**RECORD SOURCE CATEGORIES:**

(a) Individuals involved in employee and labor relations matters; (b) Counsel(s) or other representative(s) for parties in an action other than the Postal Service; (c) Other individuals involved in this matter. Source documents include internal memoranda, court related documents, case files and other relevant records.

**USPS 200.010**

**SYSTEM NAME:**

Non-Mail Monetary Claims—Relocation Assistance Claims, 200.010

**SYSTEM LOCATION:**

USPS National Headquarters (Real Estate and Buildings Department), Washington, D.C. 20260, and all Regional Real Estate and Buildings Departments.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Owners and tenants of real property purchased or leased by the U.S. Postal Service.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Completed claim forms and other documents related to indemnifying occupants of property acquired by the U.S. Postal Service.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) and 39 USC 401.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose—This information is used to adjudicate claims for reimbursement of relocation expenses incurred by owners and tenants of real property acquired by the U.S. Postal Service.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. May 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 legislative coordination and clearance process as set forth in that Circular.
3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body, or in connection with the settlement of any claim or the resolution of any dispute.
4. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.
5. Inactive records may be transferred to a GSA Federal Records Center for storage prior to destruction.
6. May be disclosed to a Federal compliance investigator for case or program review.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Stored in file cabinets in original, typed, printed or handwritten form.

RETRIEVABILITY:

Claims are ordered and retrieved alphabetically by claimant name within project file.

SAFEGUARDS:

Maintained in locked file cabinets within the exclusive custody of Real Estate and Buildings Department management personnel.

RETENTION AND DISPOSAL:

Records are retained for the life of the facility and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Real Estate and Buildings Department, Headquarters.

NOTIFICATION PROCEDURE:

Claimants wishing to know whether and what information about them is maintained in this system of records should address inquiries to the same facility to which they applied for relocation benefits.

RECORD ACCESS PROCEDURES:

See NOTIFICATION Procedure above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION Procedure above.

RECORD SOURCE CATEGORIES:

Information is obtained from previous dwelling owner or tenant claimant and Postal Service claim reviewers and adjudicators.

USPS 200.020

SYSTEM NAME:

Non-Mail Monetary Claims—Monetary Claims involving Present or Former employees (case files), 200.020

SYSTEM LOCATION:

Law Department, Headquarters, Regional Counsel Offices, Regional Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in monetary claims cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Formal pleadings and memoranda of law; (b) Other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service Attorneys and other personnel; (d) Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401, 409(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Transferred to the Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper documents and compute tape/disk.

RETRIEVABILITY:

By name of litigant(s).

SAFEGUARDS:

Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals and tape/disk files are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Counsel, Law Department, National Headquarters.

RECORD ACCESS PROCEDURES:

See "System Manager" above.

CONTESTING RECORD PROCEDURES:

See "System Manager" above.

RECORD SOURCE CATEGORIES:

(a) Individuals involved in monetary claims cases, (b) Counsel(s) or other representatives for parties in litigation other than Postal Service. Source documents include records relevant to the case.

USPS 210.020

SYSTEM NAME:

Contractor Records—Driver Screening System Assignment Records, 210.020.

SYSTEM LOCATION:

Mail Processing Department, Headquarters, Regional Offices; Sectional Centers; Bulk Mail Centers; District Offices; Post Offices; Postal Data Centers; and Transportation Management Offices (TMOs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons under a highway contract with the USPS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number and highway contract to which assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To ascertain employees having an assignment requiring access to mail or postal premises under contract with the USPS.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

2. May 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.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested record are needed by the investigator in the performance of his duty of investigate a discrimination issue involved in the complaint.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Originally typed, printed or handwritten form; magnetic tape and computer printed reports.

**RETRIEVABILITY:**

Primarily by highway contract and postal locations serviced; secondarily, by individual's social security number and name.

**SAFEGUARDS:**

Through computerized codes and passwords, access is restricted to offices that are the authority for a specific contract and to only those post offices serviced by the contract.

**RETENTION AND DISPOSAL:**

Records are held one year after the contract expires, or one year following an individual's employment termination with a company that has been awarded a highway contract.

**SYSTEM MANAGER(S) AND ADDRESS:**

APMG, Mail Processing Department, Headquarters.

**NOTIFICATION PROCEDURE:**

Contractors wishing to know whether information about them is maintained in this system of records should address inquiries to the TMO Manager. Inquiries should contain full name and highway contract number.

**RECORD ACCESS PROCEDURES:**

See NOTIFICATION above.

**CONTESTING RECORD PROCEDURES:**

See NOTIFICATION above.

**RECORD SOURCE CATEGORIES:**

Information is obtained from the contractor.

List of U.S. Postal Service Facilities Referenced Herein.

The address of each Postal Service facility to which requests may be sent (referred to in systems descriptions), other than post offices and the geographical area served, is provided below. The addresses of individual post offices are not provided because of their large number and because that information is available locally to all concerned individuals.

The addresses of all Postal facilities, including locations in Puerto Rico, and the Virgin Islands are contained in THE NATIONAL ZIP CODE AND POST OFFICE DIRECTORY, Publication 65, STOCK NUMBER 039–000–00261–2, available for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Postmasters, upon request, will supply the addresses of the Management Sectional Centers and District Offices to which they report.

The following excerpts of addresses and areas serviced is provided for convenience of Privacy Act correspondents, and obviates the repetition in each notice. All "Headquarters" addresses are:

(Office), U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

**Postal Service Regional Offices**

Regional Postmaster General, Central Region, Main P.O. Bldg., Chicago, IL 60699. (States serviced: IL, MI, OH, IN, HY, WI, MN, IA, MO, ND, SD, NE, KS (except 679).)

Regional Postmaster General, Eastern Region, P.O. Box 8601, Philadelphia, PA 19101. (States serviced: VA, WV, MD, DE, PA, DC, and those portions of New York State and New Jersey outside the Greater New York City Metropolitan area.)

Regional Postmaster General, Southern Region, 5100 Popular Ave., Memphis, TN 38166. (States serviced: TN, AL, MS, TX, LA, GA, FL, NC, SC, OK, AR and KS (679).)

Regional Postmaster General, Northeast Region, 1633 Broadway (at 50th Street) New York, NY 10098. (States serviced: New York City, RI, MA, NH, VT, ME, and those portions of New York State, Connecticut, and New Jersey within the New York City Metropolitan area, also Puerto Rico and Virgin Islands.)

Regional Postmaster General, Western Region, 850 Cherry St., San Bruno, CA 94099. (States serviced: CA, NV, HI, AK, WA, OR, MT, ID, WY, UT, CO, AZ, NM, EL Paso, TX Dist. and Guam.)

**Inspection Service**

Chief Postal Inspector, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

**Training Institute**

Postal Service Training and Development Institute, 10000 Kentsdale Drive, Potomac, MD 20854.

**National Test Administration Center**

National Test Administration Center, U.S. Postal Service, Federal Building, Room 2001, 300 North Los Angeles Street, Los Angeles, California 90012.

**Bulk Mail Centers**

Atlanta, 1805 Bolton Road, NW., Atlanta, GA 30369.

Chicago, 7500 West Roosevelt Road, Building No. 1, Forest Park, IL 60130.

Cincinnati, 3055 Crescentville Road, Cincinnati, OH 45235.

Dallas, P.O. Box 21106, Dallas, TX 75211.

Denver, 7755 East 56th Avenue, Commerce City, CO 80022.

Des Moines, 4000 NW., 109th Street, Des Moines, IA 50395.

Detroit, 17500 Oakwood Boulevard, Allen Park, MI 48101.

Greensboro, 3701 West Wendover Avenue, Greensboro, NC 27495.

Jacksonville, 7415 Commonwealth Avenue, Jacksonville, FL 32099.

Kansas City, 4900 Speaker Road, Kansas City, KS 66106.

Los Angeles, 4701 South Eastern Avenue, Bell, CA 90201.

Memphis, 1921 Elvis Presley Boulevard, Memphis, TN 38136.

Minneapolis-St. Paul, 3165 South Lexington Avenue, St. Paul, MN 55121.

New York, 80 County Road, Jersey City, NJ 07307.

Philadelphia, 1900 Byberry Road, Philadelphia, PA 19116.

Pittsburgh, R.D. No. 2, Wexford, PA 15090.

St. Louis, 5800 Phantom Drive, Hazelwood, MO 63042.

San Francisco, 2501 Rydin Road, Richmond, CA 94850.

Seattle, P.O. Box 5000, Federal Way, WA 98002.

Springfield, 190 Fiberloid Street, Springfield, MA 01151.

Washington, 9201 Edgeworth Drive, Washington, D.C. 20027.

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Wednesday
January 7, 1981

Part V

# Environmental Protection Agency

## State Registration of Pesticides To Meet Special Local Needs

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 162**

**[OPP-30003B; PH FRL 1619-2]**

## State Registration of Pesticides To Meet Special Local Needs

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This document establishes final rules for the registration of pesticides by the States to meet special local needs, as authorized by sec. 24(c) and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended [FIFRA] (sec. 22 and 23, Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136 et seq.). This rule clarifies the scope of the authority granted to the States by the statute, describes registration procedures for States, and establishes procedures for EPA's exercise of its statutory power to disapprove certain State registrations and to suspend State registration authority.

**EFFECTIVE DATE:** This rule will not take effect before the end of 60 calendar days of continuous session of Congress after the date of publication of this rule. EPA will publish a notice of the actual effective date of this rule. See Supplementary Information for further details.

**FOR FURTHER INFORMATION CONTACT:** P. H. Gray, Jr., Sec. 24(c) Working Group Leader (TS-770-M), Office of Pesticide Programs, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 1401 M St. SW., Washington, D.C. 20460, 202-472-9400.

**SUPPLEMENTARY INFORMATION:** These rules will be designated as §§ 162.150 through 162.155, Subpart D, Part 162, Title 40 of the code of Federal Regulations.

These rules were tentatively designated as Subpart B and published as a proposed rule for public comment on August 7, 1979 (44 FR 46414). Subsequent to the publication of the proposed rules, the Section 24(c) Working Group was notified that Subpart B would be designated for future amendments to regulations under section 3 of FIFRA. Accordingly, the final sec. 24(c) regulations will be designated as Subpart D of Part 162.

Subpart D replaces the proposed rules establishing the Interim Section 24(c) Program published on September 3, 1975 (40 FR 40538), as well as the Transitional Section 24(c) Policy statement signed on October 5, 1978, by the Deputy Assistant Administrator for Pesticide Programs [44 FR 46422 *et seq.*].

### Background

On September 30, 1978, the Federal Pesticide Act of 1978 (Pub. L. 95-396, 92 Stat. 819) amending the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA) went into effect. Among the sections of FIFRA which were substantially modified is sec. 24(c) (sec. 2 of Pub. L. 95-396), which authorizes the States to register "additional uses of federally registered pesticides to meet special local needs." The changes made in sec. 24(c) by the Federal Pesticide Act are described in the preamble to the proposed sec. 24(c) regulations published in the **Federal Register** of August 7, 1979 (44 FR 46414).

Comments on the proposed rules were received from approximately 15 sources, including members of the pesticide production industry, pesticide user groups, environmental groups, and several States. These comments are available for public inspection at the Office of the Documents Control Officer, Management Support Division (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, D.C. 20460.

After consideration of all comments received, EPA has made several, relatively minor, changes in Subpart D. Most of these revisions were made to clarify sec. which apparently were unclear to some readers, or in response to comments made on specific issues discussed in the preamble to the proposed rule. Both the significant relevant comments and the significant changes in the rule are discussed below.

### Comments

*General*

Comments referred to in this preamble are numbered 1(30003A) through 17(30003A) in EPA's public access file. For the purposes of discussion in this preamble, the comments are referred to as numbers 1 through 15A, corresponding to the official numbering system.

Of the comments received, seven comments [nos. 3, 6, 8, 10, 11, 15, and 15A] were received which were generally, or entirely, supportive of the proposed regulations. These included comments from the Ohio Department of Agriculture, Dow Chemical Co., the Georgia Department of Agriculture and Cooperative Extension Service, and the Virginia and Ohio Farm Bureau Federations.

Four commenters responded to the suggestion contained in the preamble to the proposed rules that State registrations are limited by sec. 24(c) to products formulated only from manufacturing-use products (technical grade materials) registered under sec. 3 of FIFRA (44 FR 46415). Two commenters (nos. 4 and 5) favored this interpretation of sec. 24(c), while the third commenter (no. 7) opposed it as unnecessary. The fourth commenter (no. 1) favored the idea of a limitation, but suggested that States also be allowed to register products formulated from end-use products registered by EPA.

EPA has concluded that sec. 24(c)(1) was intended to limit State registration of new end-use products to those whose active ingredients are present because of the use of federally-registered products. Accordingly, a new § 162.152(b)(2)(ii) has been added to clarify this limitation.

In effect, this provision will permit States to continue to register new end-use products which are formulated from one or more manufacturing-use or end-use products previously registered by EPA under sec. 3 of FIFRA. Reformulation of a product labeled for end-use, for the purpose of manufacturing a new product, is generally a use not permitted by the original product's labeling. Ordinarily, this would technically be a use inconsistent with the original end-use product's labeling and a violation of sec. 12(a)(2)(G) of FIFRA. However, EPA has determined that such a practice is consistent with the purposes of FIFRA, at this time, and, under sec. 2(ee) of FIFRA, that it is not prohibited by the Act. This practice—registration of reformulated end-use products—is also consistent with EPA's past practice for registration under sec. 3.

Nonetheless, the Agency recognizes that this policy under sec. 3 and sec. 24(c) may cause difficulties in the application of the data requirements for registration under sec. 3 of the Act. For example, in EPA's proposed data guidelines, some data requirements which apply to manufacturing-use products do not apply to end-use products with particular use patterns. In addition, reformulation of end-use products could create opportunities for evasion of the data compensation provisions of sec. 3(c)(1)(D) of the Act.

Accordingly, EPA is now in the process of re-evaluating its policy regarding registration of reformulated end-use products under sec. 3. If EPA concludes that the disadvantages of registering such products outweigh the advantages, then EPA's policy under sec. 3 will be modified accordingly. Thereafter, any reformulation of end-use products, for distribution or sale, not in

conformance with the products' labeling or EPA policy would be a violation of sec. 12(a)(2)(G) of FIFRA, and registration of such a product would not be consistent with the purposes of FIFRA. Therefore, since sec. 24(c)(1) requires State registrations to be issued "in accordance with the purposes of the Act," State registration of end-use products must be carried out consistently with EPA's current and future policy on registration under sec. 3. Section 162.152(b)(2) (ii) of the regulations will be revised to clarify any limitations on State authority when, and if, EPA modifies its policy on reformulation of end-use products.

It should be noted that § 162.152(b)(2)(ii) will effectively bar an applicant for State registration from producing active ingredients for his own use in formulating end-use products, unless he has already obtained a section 3 registration for the ingredient as a manufacturing-use product. In addition, § 162.152(b)(1)(iv) and § 162.152(b)(2)(iii) [§ 162.152(b)(2)(ii) in the proposed rules] expressly prohibit State registration of new manufacturing-use products and of amendments to federally registered manufacturing-use products.

Three commenters commented on proposed § 162.153(h)(4)(i). One commenter (no. 7) stated, incorrectly, that that section authorized EPA to request data used for unreasonable adverse effects determinations from a State for any registration issued under sec. 24(c) of FIFRA. The other commenters (nos. 1 and 8) responded to the question posed in the preamble to the proposed rule (44 FR 46417) on whether § 162.153(h)(4) should be revised to authorize EPA to request data on unreasonable adverse effects in every case where States are required by § 162.153(c) to conduct such a hazard review. Those commenters, including the Wyoming Department of Agriculture, suggested that § 162.153(c) and (h)(4) be made consistent.

In accordance with these comments, and for the reasons set forth in the preamble to the proposed rule, § 162.153(h)(4) has been revised to authorize EPA to request, when appropriate, hazard data from the States in all situations covered by § 162.153(c). This data may be required in such cases to enable EPA to determine if an imminent hazard is created by the registration.

With regard to another question raised in the preamble to the proposed rule on excluding voluntary cancellations from the prohibition in § 162.153(b) against State registrations of cancelled uses, three comments were received. Two commenters (nos. 6 and 14) suggested that all voluntarily cancelled uses should be included in the prohibition.

One commenter (no. 1) favored allowing States to register a use voluntarily cancelled under section 3 if such cancellation was not preceded by a notice of intent to cancel. However, the commenter went on to suggest that in such cases the State must first determine the reason for voluntary cancellation, since a registrant may voluntarily cancel a registration because of health or safety concerns, even though EPA has not issued a notice of intent to cancel.

EPA has considered these issues at length and has decided that section 24(c)(1) was not intended to apply in all cases of voluntarily cancelled registrations, since some registrations may have been cancelled merely for reasons of convenience. However, voluntary cancellations made by a registrant subsequent to a notice of intent to cancel by EPA are in the same general class as cancellations actually made by the Administrator for health and safety reasons. Therefore, such cancellations are covered by sec. 24(c)(1). Accordingly, § 162.152(a)(3) has been revised to specifically include such voluntarily cancelled registrations.

Where no notice of cancellation is involved, the reason for voluntary cancellation may not be apparent. In such cases, EPA may have access to facts that the States do not, and which States should consider before deciding whether to issue a registration under section 24(c). Therefore, § 162.152(b)(1)(iii) and (2)(iv) have been expanded slightly to require States to consult, informally, with EPA before registering any use of a product for which federal registration has been voluntarily cancelled without a prior notice of intent to cancel by the Administrator.

On a related matter, one commenter (no. 4) suggested that § 162.152(b) should also require States to notify EPA prior to registration of any products which are not similar in composition to any pesticide registered under sec. 3. EPA does not feel that such an extension is necessary, given that § 162.153(c)(1)(i) requires States to determine that such a registration will not cause unreasonable adverse effects on man or the environment, and that EPA has authority to request underlying hazard data under § 162.153(1)(4) and to disapprove such registrations, if appropriate, under §162.154.

*Definitions*

Several commenters objected that several of the proposed definitions were intended to make "essentiality" a prerequisite for State registration, contrary to the intent of sec. 24(c)(2). One of these commenters (no. 7) claimed that the definition of "pest problem" under § 162.151(d) would lead to this result—in the case of desiccants, defoliants, and plant regulators—since that definition uses the word "requiring" when describing when such pesticides may be registered to correct a pest problem. EPA does not agree with this commenter's interpretation of the definition, and rejects any suggestion that EPA is trying indirectly to take any action forbidden by sec. 24(c). However, to avoid any confusion with regard to the meaning of the term "pest problem," § 162.151(d)(2) has been revised to state clearly that a pest problem may exist whenever use of a defoliant, desiccant, or plant regulator would be "appropriate."

Similarly, two commenters (nos. 2 and 16) claimed that the definition of "special local need" under § 162.151(i) would make essentiality a criteria for registration, since that section and § 162.153(b) require a State to determine "that an appropriate federally registered pesticide . . . is not sufficiently available" to meet the local need. EPA must also reject this interpretation of § 162.151(i). As the preamble to the proposed regulations stated (44 FR 46415, 46416), § 162.151(i) clearly leaves the States ample discretion to determine whether any pesticide registered under sec. 3 is both "appropriate" and "sufficiently available" to meet the local need. This discretion allows a State to register a pesticide which is not absolutely "essential," if, in the good faith exercise of its authority, the State determines that a federally registered pesticide is either not "appropriate" or is, for some reason, not "sufficiently available." On the other hand, § 162.151(i) leaves any State free to use lack of essentiality as a ground for denying State registration if the State feels that is appropriate. Therefore, the definition of "special local need" represents a reasonable compromise between the need to give States some direction as to how to determine whether a special local need exists, and the need to allow the States to exercise the discretion Congress intended them to have. No change in the definition is required.

Similarly, EPA must reject the suggestion of two commenters (nos. 9 and 15) who believe that § 162.153(b) should not give examples of what a State may consider as not involving a special local need. EPA again points out, as previously stated in the preamble to

the proposed rule (44 FR 46416), that § 162.153(b) leaves the States full discretion as to whether these examples should be used in a given case. EPA does not intend to second-guess the States in such matters but it does expect the States to use their discretion to make reasonable determinations under § 162.153(b), in order to prevent registrants from circumventing the requirements of sec. 3 of FIFRA. For this reason, EPA must reject another commenter's (no. 1) claim that registration in other States is a factor which should never be considered by a State under § 162.153(b). An obvious nationwide pattern of State registrations for a particular use should be considered by a State in determining whether a registrant is evading registration requirements under sec. 3. However, EPA cannot specify a number of States which can be used as a basis for drawing a line between local and national needs, as was requested by one commenter (no. 4). Such decisions must be made on a case-by-case basis.

On the other hand, EPA must reject the suggestion of two commenters (nos. 5 and 8) that the definition of "special local need" is too broad and allows the States too much discretion. As stated earlier, the current definition reflects Congress' intent to broaden State authority under sec. 24(c) and is consistent with the experience of EPA and the States under the original sec. 24(c).

Another commenter (no. 12), however, raised a valid question about the definition. That commenter asked whether economic factors, as well as considerations of quantity, location, transportation difficulties, and similar factors affecting the availability of federally registered pesticides, could be considered in determining that a "federally registered pesticide is not sufficiently available." EPA has considered this issue carefully and has concluded that economic factors may indeed be taken into consideration by a State in deciding whether or not an EPA-registered product is "sufficiently available."

On a similar topic, one commenter (no. 5) stated that the definition of "similar use pattern" under § 162.151(1) was too broad, and that EPA is required to write "standards" to define what is a similar use pattern. Another commenter (no. 13) claimed that the definition should have stated expressly that a change from terrestrial to aquatic applications is not considered a similar use pattern. EPA must reject both comments.

The definition of "similar use pattern" was intended to be broad, in accordance with the apparent intent of Congress that the term be interpreted in a way which would allow States to issue certain routine registrations free from EPA's disapproved authority in cases where the Agency has already considered the same or similar registrations under sec. 3 (see S. Rep. 95–1188, p. 51). Also, there is no need to write more specific standards to distinguish between similar and non-similar use patterns since § 162.151(h) can be easily applied to all situations likely to arise under sec. 24(c). Finally, it should be noted that changes from aquatic to terrestial applications, and vice versa, are "changed used patterns," as defined by 40 CFR 162.3(k), and are therefore expressly excluded from § 162.151(h), since § 162.3 is incorporated by reference in § 162.151.

Finally, another comment (no. 7) on the definition section of the proposed rule requested clarification of the definition of "federally registered," § 162.151(a). Specifically, the commenter asked if pesticides registered by a State prior to August 4, 1975, as described in EPA's Pesticide Enforcement Policy Statement No. 3, are considered "federally registered." Such registrations are not covered by § 162.151(a) since they were not registered by the Administrator of EPA, nor by the Secretary of Agriculture, and since such registrations are specifically excluded from the applicability of this rule by § 162.150(b).

The same commenter also asked whether a valid registration under sec. 24(c) sustains itself under the provisions of FIFRA. As stated in the preamble to the proposed rule (44 FR 46416), valid registrations under sec. 24(c) are subject to all provisions of FIFRA which come into effect after issuance of a registration, including provisions for continuing a federal registration.

*State Registration Authority*

Two commenters (nos. 4 and 16) objected generally that these rules would expand State registration authority beyond that granted by the original version of sec. 24(c), contrary to the intent of Congress. EPA must reject these comments for the reasons stated in the preamble to the proposed rule (44 FR 46414).

Another commenter (no. 5) stated specifically that sec. 24(c) does not authorize States to register new pesticide products, as provided by proposed § 162.152(b)(2). The commenter cited that absence of language in sec. 24(c) expressly authorizing such registrations, as well as certain portions of the Senate Committee on Agriculture, Nutrition, and Forestry Report on the Federal Pesticide Act of 1978, pp. 81, 169 (January 1979) which the commenter believes support its interpretation.

EPA has considered these points at length. In fact, similar arguments were exhaustively examined by EPA prior to the drafting of the proposed rule. However, it was concluded that, although the express language of sec. 24(c) could be interpreted as the commenter suggested, such an interpretation "would be inconsistent with Congress' general intent to broaden State registration authority * * *" (see preamble, 44 FR 46415), since such an interpretation would, in fact, remove authority which States clearly possessed under the original sec. 24(c). It is extremely unlikely that Congress intended such a result.

It should also be noted that, although the legislative history cited by the commenter tends to support the commenter's opinion, other, equally valid, examples of the legislative history of sec. 24(c) support EPA's interpretation (see, e.g., H.R. Rep. 95–1188, pp. 50–51, (September 12, 1978)). Therefore, that portion of the commenter's argument is not sufficiently persuasive.

In addition, EPA would point out that only one response was received on this issue, even though the preamble to the proposed rule clearly invited comment on EPA's interpretation. Therefore, this commenter apparently stands alone in objecting to § 162.152(b)(2), even though other members of the pesticide manufacturing industry might benefit economically if the commenter's suggestion were adopted by EPA.

Therefore, since the language of sec. 24(c) is subject to the interpretation given it in the proposed rules, since that interpretation is consistent with Congress' general intent, and since the legislative history of the section is not conclusive, EPA must reject this comment.

On a similar matter, another commenter (No. 16) stated his opinion that sec. 24(b) of FIFRA prohibits States from issuing registrations under sec. 24(c) for a pesticide use already registered under sec. 3, contrary to proposed § 162.152(c)(2). EPA rejects this comment on the grounds that it is based on an erroneous interpretation of sec. 24(b). That section merely prohibits States requiring changes in the labeling or packaging of products registered under sec. 3. It does not prohibit State registration of the use itself under sec. 24(c), even though the State registration may require the addition of supplemental labeling to the product. Such supplemental labeling is necessary to implement sec. 24(c), and its use is therefore "required under [the] * * *

Act" and is authorized by sec. 24(b). Those sections must be read consistently, and not in such a way as to negate each other.

With regard to limitations on State authority, one commenter (No. 5) suggested that the requirement in § 162.152(a)(2), as explained in the preamble to the proposed rule (44 FR 46415), for tolerances and clearances for food or feed uses should not apply to inert ingredients, by-products, and metabolites. The commenter claimed that such a requirement would be inconsistent with Agency policy with regard to registrations under sec. 3 of FIFRA. EPA must reject this comment since the requirement is, in fact, consistent with current Agency policy for federal registrations (e.g., 40 CFR Part 180). Although EPA does not always publish tolerances or other clearances for inerts, metabolites, and by-products, it always satisfies itself that nontoxicological problems will be caused by such compounds before registering a product. EPA believes that this policy, together with sec. 24(c)(3)'s express prohibition against State registration of pesticides for food or feed use without tolerances or exemptions under the FFDCA, justifies the limitation found in § 162.152(a)(2).

Another commenter (No. 4) criticized proposed § 162.152 (b) and (c), which permits State registration of uses of products for which other uses of the same product have been cancelled by EPA. The commenter implied that the States should not be allowed to register such uses, and that authority to do so would lead to State registration of many new uses of products like DDT over which EPA would have little or no control. This commenter has apparently overlooked the statement in the preamble to the proposed rule (44 FR 46415) which explained that the provisions in question were written to be consistent with the express language of sec. 24(c)(1). In addition, the commenter has overlooked the fact that § 162.152 (b) and (c) require States to consult with EPA prior to registering such uses. This prior consultation will allow EPA to discuss controversial applications with a State, and, where necessary, provide EPA with an opportunity to dissuade the State from issuing a potentially hazardous registration. In those cases where the State nevertheless issues a registration, EPA will at least have had sufficient prior notice of the State action to take whatever steps might be necessary and appropriate to prevent unreasonable adverse effects from occurring.

*State Registration Procedures*

One commenter (No. 4) requested that it be given direct notification of any sec. 24(c) registration issued for a use of a pesticide for which other uses of the same pesticide were cancelled after hearings in which the commenter had participated. EPA must reject this request for special notification since it would impose an unreasonable and unnecessary burden upon the Agency or the States. Since notice of all sec. 24(c) registrations will be regularly published in the **Federal Register** under § 162.153(i), the commenter, and other persons, will have adequate notification of registrations in which they have an interest.

Two commenters (Nos. 6 and 9) suggested that proposed § 162.153(h)(2) should be amended to allow States more than 45 days after issuance of a registration in which to send EPA a copy of final printed labeling for that registration. Both commenters stated that, in general, States cannot obtain copies of final printed labeling in time to comply with the 45 day limit. This accords with other comments received by EPA during the drafting of the proposed rule. EPA has therefore decided that, as suggested by some commenters, 60 days is a more reasonable time limit for submission of such labeling. Section 162.153(h)(2) has been amended accordingly.

One commenter (No. 16) criticized proposed § 162.153(d), which requires States to perform efficacy reviews only when registering public health uses, on the grounds that the requirement imposes an unfair burden on such registrants. EPA strongly disagrees with this comment. Although § 162.153(d) does place a burden on registrants of public health uses, the necessity of ensuring the efficacy of pesticides registered for such uses is clear and well-established. Lack of efficacy could have a direct and serious adverse impact on the health of persons who rely on such products for control of disease-causing pests. This is generally not the case for registration of other (e.g., agricultural) uses. Moreover, as stated in the preamble to the proposed rule, the efficacy review provision is consistent with EPA's general policy for registrations issued under sec. 3 of FIFRA (e.g., 40 CFR 162.182(b)(2)(i)).

One commenter (No. 9) objected generally to the proposed section on State registration procedures under § 162.152 on the grounds that they are not expressly authorized by FIFRA. The commenter suggested that State registration procedures be described in voluntary "guidelines" instead. EPA rejects this broad criticism since, for reasons stated in the preamble to the proposed rule (44 FR 46416), it is necessary to the implementation of EPA's duties under sec. 24(c) for all States to observe certain minimal uniform procedures. Only in this way can EPA be assured that States are exercising their authority in accordance with the limitations of sec. 24(c), and only by this type of regulation can EPA obtain the data needed to make reasonable decisions, when appropriate, on whether to disapprove State registrations or to suspend State authority. Therefore, such regulations are implicitly authorized by sec. 24(c) and sec. 25(a) of FIFRA.

Another commenter (No. 7) suggested that data required to be submitted to States by registrants under § 162.153 should be considered as "protected under FIFRA sec. 3(c)(1)(D) with respect to future use in support of registrations under sec. 3 of FIFRA." EPA cannot agree with this interpretation. The data protection provisions of sec. 3(c) specifically apply only to data submitted to the Administrator of EPA. Neither sec. 3(c)(1)(D) nor sec. 10, "Protection of Trade Secrets," was intended to apply to data held only by the States under sec. 24(c). As stated in the preamble to the proposed rules (44 FR 46416), valid registrations issued under sec. 24(c) are considered "registrations under sec. 3." However, the procedures leading up to registration by the State are not covered by the procedural requirements for issuance of registrations under sec. 3. This includes requirements under FIFRA for data use protection and compensation.

On another matter, one commenter (No. 16) objected to proposed § 162.153(d)(4) (now § 162.153(e)(5)) on the grounds that States are not authorized to classify pesticides for restricted use under FIFRA. This commenter has apparently misunderstood the clear intent and meaning of § 162.153(e)(5). That section does not allow States to classify pesticides for restricted use under FIFRA. It merely recognizes that many States have authority to classify pesticides under State law, and that it is possible that special conditions in a State may warrant a restriction of a pesticide use which is not restricted by EPA. States have always been free to impose such additional restrictions on pesticide use within their jurisdictions under sec. 24(a) of FIFRA, provided that they do not violate sec. 24(b) by altering the approved federal labeling or packaging in any way not specifically authorized by EPA. The agency has long

recognized and sanctioned such action by States, and § 162.153(e)(5) merely confirms this fact and lays down certain procedures which will ensure that States do not violate sec. 24(b) in exercising their authority. Of course, such an additional restriction under State law is enforceable only under State law, not under FIFRA sec. 3(d).

On a related topic, another commenter (No. 7) asked for clarification of a statement in the preamble to the proposed rule (44 FR 46417) to the effect that classification of a pesticide for restricted use by EPA will "automatically apply to all registrations previously issued under sec. 24(c) for that pesticide." As the commenter correctly observed, the preamble should have read that restriction of a use by EPA "will automatically apply to all registrations under sec. 24(c) for that use of the pesticide."

The same commenter also argued that proposed § 162.153(e)(3)(viii) was wrong in requiring that State supplemental labeling prohibit use of a pesticide inconsistent with EPA-approved labeling. The commenter claimed that this would largely negate the effect of sec. 24(c), since State supplemental labeling often authorizes uses inconsistent with the federal labeling. EPA disagrees with this assessment.

EPA recognizes that State supplemental labeling frequently authorizes uses not specifically authorized by EPA-approved labeling. That is consistent with the purpose of sec. 24(c). However, such additional uses also must be, and generally are, consistent with the federal labeling under the terms of FIFRA sec. 2(ee). That section allows many uses not found on the federal labeling, as long as the new use is not prohibited by the EPA labeling and is otherwise in conformance with sec. 24 and regulations thereunder. Therefore, State supplemental labeling can, and must, be written in such a way as to conform with approved federal labeling, as required by proposed § 162.153(e)(3)(viii). Readers should note, however, that proposed § 162.153(e)(3)(viii) has been combined with § 162.153(e)(3)(vii) in the final rule to eliminate some redundancy.

The same commenter also suggested that § 162.153(e) be expanded to provide additional guidance to States on supplemental labeling requirements in cases where a State registers an unclassified use of a pesticide for which other uses have been classified as restricted by EPA. EPA does not believe that such additional guidance is required since § 162.153(e)(3) already gives sufficient instruction as to the minimum required contents of any supplemental labeling. In any event, in many of the cases described by the commenter, the State will be required to classify the use registered under sec. 24(c) as restricted under § 162.153(g). In those instances where the State need not classify the use as restricted, it is free to indicate that fact on the supplemental labeling.

However, the Agency has, on its own initiative, slightly modified § 162.153(e)(3), and added a new § 162.153(e)(4), to clarify when State approved labeling must be made available to purchasers and users of pesticides registered under sec. 24(c), and to emphasize that the States have the primary responsibility for ensuring compliance with this requirement.

Commenter no. 7 also suggested that EPA publish a summary of all prior State registration actions in the first notice published under § 162.153(i). EPA has already compiled such a listing and has made it available to the States and to the public on microfiche.

*Disapproval of State Registrations*

One commenter (no. 7) suggested that § 162.153(c) be amended by changing the disapproval period for State registrations, for which EPA was not timely notified, from 90 days to 80 days from the time that EPA actually received notification of the registration. This suggestion was based on the commenter's belief that a disapproved registration remains in effect until the disapproval period is over, even though it may actually have been disapproved before the end of the disapproval period. The commenter was concerned that disapproved registrations should not remain effective longer than absolutely necessary. EPA shares this concern but does not agree with the commenter's suggestion, since it is based on an erroneous interpretation of sec. 24(c)(2). Disapprovals by EPA under that section are effective immediately, as § 162.154(c) clearly implies, unless the notice of disapproval indicates otherwise. This is the most reasonable interpretation of the statutory language. It is extremely unlikely that Congress intended that a State registration should be considered valid—and the pesticide to be lawfully distributed and used—after it has been disapproved on health, environmental, or other substantial grounds. Nothing in the legislative history of the section supports any interpretation other than EPA's. However, to avoid confusion on this subject, § 162.154(c) has been slightly amended to clarify this point.

Two commenters (nos. 7 and 12) also suggested that § 162.154(c) be amended to require the Administrator to include instructions on use or disposal of existing stocks of disapproved pesticides whenever appropriate. EPA agrees that such a change is reasonable and § 162.154(c) has been amended accordingly.

Finally, the U.S. Department of the Interior in its comments (no. 13) suggested that EPA consult the Fish and Wildlife Service whenever making a determination under § 162.154(a)(1)(i) on the possible creation of unreasonable adverse effects on the environment. Although EPA must retain sole responsibility for making such decisions under § 162.154, the Agency intends to consult with other Agencies whenever appropriate to obtain expert advice on matters with which the other Agencies are concerned.

*Suspension of State Authority*

One commenter (no. 16) suggested that § 162.155(b)(2) and (c)(3) be amended to require the Administrator to suspend a State's authority whenever a State commits any of the acts described therein. EPA rejects this suggestion since it would deprive the Administrator of the discretion, expressly granted by sec. 24(c)(4), which is needed in order to negotiate reasonable solutions with States in cases where suspension of State authority is not necessary.

Similarly, EPA must partially reject another commenter's (no. 8) claim that § 162.155(b)(2) allows the Administrator too much discretion in that it authorizes suspension for a State's refusal to correct "other deficiencies in its program specified by the Administrator." This authority is consistent with sec. 24(c)(4) and is necessary to ensure that State programs are implemented in accordance with sec. 24(c). However, EPA agrees that the term "other deficiencies" is somewhat broad and § 162.155(b)(2) has therefore been revised to limit the Administrator's power to cases of "significant deficiencies" in the State program.

Finally, the same commenter also suggested that § 162.155 be amended to specify the administrative or judicial remedies which are available to a State subject to a suspension of its authority. EPA agrees with this request and § 162.155 has been modified to specify that remedies are available under sec. 16 of FIFRA and the Administrative Procedure Act.

In addition, § 162.155(c) has been revised to clarify the procedures by which final decisions on suspension will be made, including procedures for administrative hearings and appeals.

*Miscellaneous*

One commenter (no. 7) requested that the rules be revised to state expressly that sec. 24(c) registrants must comply with State law as well as all applicable federal laws and regulations. EPA does not believe such an amendment is required since it is clear that all State laws and regulations which are not in conflict with FIFRA, or rules thereunder, must be obeyed by those under the jurisdiction of the State.

Another commenter (no. 8) objected to the statement in the preamble to the proposed rule (44 FR 46417) that disapprovals by EPA of registrations under sec. 24(c) are not the same as denial, suspension, or cancellation of registrations under sec. 3 and 6 of FIFRA. The commenter argued that disapprovals are equivalent to such actions, and that State registrants subject to disapproval are entitled to remedies under sec. 3, 6 and 15 of FIFRA. EPA rejects this argument absolutely since the language of sec. 24(c) itself clearly distinguishes between disapprovals and other actions taken under FIFRA and establishes procedures for disapproval different from procedures established for sec. 3 and 6. Nor is there any indication in either sec. 3 or 6, or their legislative history, that disapproval of State registrations is to be covered by the procedures established expressly for denial, suspension, and cancellation of registrations.

Two commenters (nos. 5 and 9) objected that proposed § 162.156(a)(3), stating that registrations not issued in accordance with § 162.156(a) and (b) are invalid, was unauthorized under sec. 24(c). EPA strongly disagrees with this interpretation for the reasons stated in the preamble to the proposed rule (44 FR 46418). Even though sec. 24(c) does not expressly refer to invalidation of State registrations, it does specifically lay down several important prerequisites to the issuance of registrations by a State under that section. § 162.156(a) and (b) restate and clarify those conditions. A State registration which does not meet all of those prerequisites clearly cannot be considered valid under sec. 24(c). It would be unreasonable, for example, to conclude that a registration issued by a State for a pesticide use previously cancelled by EPA should be considered valid even though sec. 24(c)(1) expressly prohibits such registrations. The unreasonableness of considering such potentially hazardous unauthorized registrations as valid until disapproved is further demonstrated by the fact that EPA's authority to disapprove State registrations is relatively limited. Therefore, § 162.156(a)(3) is a necessary, proper, and authorized way to prevent pesticides which are registered in flagrant violation of sec. 24(c)(1), but which are beyond EPA's disapproval authority, from entering into public use. However, EPA does recognize that proposed § 162.156(a)(3) was somewhat overbroad in that it incorporated as grounds for invalidation all of § 162.152(b), even though some provisions of the latter section were not limitations on State authority created by sec. 24(c). Accordingly, § 162.156(a)(3) has been revised to incorporate by reference only those parts of § 162.152(b) derived from the limitations found in sec. 24(c).

On the same topic, another commenter (no. 6), implicitly conceding the legitimacy of § 162.152(a)(3), suggested that a 90 day limit be placed on the Administrator's authority to issue notices of invalidity. EPA must also reject this suggestion, which was apparently based on the fact that there is a 90 day limit on EPA's disapproval authority. As explained above, invalidation and disapproval are of entirely different natures. The procedural restraints expressly imposed on disapproval actions by sec. 24(c) are not, and should not be, imposed on notices of invalidation which merely point out that a particular registration is void, from the moment it was issued, under the direct operation of sec. 24(c) itself. However, pursuant to another commenter's request (no. 16), § 162.156(a)(3) has been slightly modified to require the Administrator to notify the registering State whenever he discovers that a State registration is invalid.

Finally, one commenter (no. 2) suggested that the five year limit for completion of a regulatory review under sec. 2(d)(8) of Executive Order 12044, proposed for this rule (44 FR 46418), be shortened to two and one-half years. EPA must reject this suggestion. The five year review period is standard for this type of regulation, while the period proposed by the commenter is too short to permit an accurate evaluation of the effectiveness of this rule. However, it should be noted that the regulation is subject to amendment at any time if a need for such action can be shown. The commenter and other interested persons, are, of course, free to bring such a need to EPA's attention whenever it arises.

Several other comments were received which were either irrelevant or clearly erroneous in content, or which were too minor to warrant discussion in this preamble.

**Conclusion**

As the preceding discussion shows, relatively few changes in the proposed regulations were necessary. Those changes are either minor or made pursuant to specific proposals on which public comment was invited in the preamble to the proposed rule. Therefore, this regulation does not require reproposal under 5 U.S.C. 553(b).

**Regulatory Analysis**

EPA has determined that this rule does not require a Regulatory Analysis under Executive Order 12044. A screening study to this effect is available for review.

**Statutory Review**

The U.S. Department of Agriculture has reviewed this regulation in accordance with section 25(a) of FIFRA and has concurred with only one minor comment in its publication in the **Federal Register**. That comment involved clarification of § 162.152(a)(2) and the comment has been incorporated in this final rule.

The regulation was also submitted for scientific review and comment to the FIFRA Scientific Advisory Panel (SAP) in accordance with section 25(d) of FIFRA. In a letter dated August 20, 1980 to the EPA Deputy Assistant Administrator for Pesticide Programs, the SAP concurred without comment in the proposed regulation.

**Regulatory Review**

Section 2(d)(8) of Executive Order 12044 requires that a plan for evaluating the regulation after its issuance be developed. The Agency's plan for evaluation of this rule calls for an analysis by EPA of the regulation and its effect on State regulatory agencies and registrants, in cooperation with the State-FIFRA Issues Research and Evaluation Group.

This evaluation will be performed within five years from the date of promulgation of this rule, and a determination will then be made as to whether modification of the rule is necessary.

Effective Date: On December 17, 1980, President Carter signed the Federal Insecticide, Fungicide, and Rodenticide Act Extension bill (Pub. L. 96–539). This bill amended several sections of FIFRA, including sec. 25 on rulemaking. Section 4 of the Extension Act adds a new paragraph, sec. 25(e), to FIFRA which requires EPA to submit final regulations to Congress for review before the regulation becomes effective. Copies of this rule have been transmitted to

appropriate offices in both Houses of Congress.

(FIFRA 24(c); 7 USC 136v)
Dated: December 24, 1980.

**Douglas M. Costle,**

*Administrator.*

Pursuant to sec. 4 of the 1980 FIFRA Extension Act, and in accordance with President Carter's statement on signing the bill (Weekly Compilation of Presidential Documents, p. 2814, December 22, 1980), this rule will not take effect before the end of 60 calendar days of continuous session of Congress after the date of publication of this rule. Since the actual length of this waiting period may be affected by Congressional action, it is not possible, at this time, to specify a date on which this regulation will become effective. Therefore, EPA at the appropriate time, will publish a notice in the Federal Register, announcing the end of this "report and wait" period and notifying the public of the actual effective date of this regulation.

40 CFR Part 162 is amended by reserving Subparts B and C and establishing Subpart D, to read as follows:

## PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

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**Subparts B–C—[Reserved]**

**Subpart D—Regulations Pertaining to State Registration of Pesticides To Meet Special Local Needs**

Sec.
162.150 General.
162.151 Definitions.
162.152 State registration authority.
162.153 State registration procedures.
162.154 Disapproval of State registrations.
162.155 Suspension of State registration authority.
162.156 General requirements.

**Authority.** Sec. 24(c) and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA or the Act (secs. 22 and 23, Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136 et seq.)

### Subparts B–C—[Reserved]

### Subpart D—Regulations Pertaining to State Registration of Pesticides To Meet Special Local Needs

#### § 162.150 General.

(a) *Scope.* This subpart sets forth regulations governing the registration by any State of pesticide products, or uses thereof, formulated for distribution and use within the State to meet special local needs under sec. 24(c) of the Act. It also sets forth regulations governing the exercise by the Administrator of the power to disapprove specific State registrations and to suspend a State's registration authority under sec. 24(c). Unless otherwise indicated, any reference herein to registrations issued by a State includes amendments of registrations issued by States.

(b) *Applicability.* This subpart applies only to State registration authority granted by sec. 24(c) of FIFRA. It does not apply to any authority granted, or procedures established, by State law with respect to registration, licensing, or approval required for use within the State of federally registered pesticide products. In addition, this subpart does not apply to products or uses registered by a State prior to August 4, 1975, and which have continued in intrastate commerce in accordance with § 162.17, unless those products were subsequently registered by the State under sec. 24(c).

#### § 162.151 Definitions.

Unless otherwise indicated, terms used in this subpart have the meanings set forth in FIFRA and in Subpart A of this part. In addition, as used in this subpart, the following terms have the meanings set forth below: (a) "Federally registered" means currently registered under sec. 3 of the Act, after having been initially registered under the Federal Insecticide, Fungicide, and Rodenticide Act of 1947 (Pub. L. 86–139; 73 Stat. 286; June 25, 1947) by the Secretary of Agriculture or under FIFRA by the Administrator.

(b) "Manufacturing-use product" means any pesticide product other than a product to be labeled with directions for end use. This term includes any product intended for use as a pesticide after re-formulation or repackaging.

(c) "New product" means a pesticide product which is not a federally registered product.

(d) "Pest problem" means (1) a pest infestation and its consequences, or (2) any condition for which the use of plant regulators, defoliants, or desiccants would be appropriate.

(e) "Product" or "pesticide product" means a pesticide offered for distribution and use, and includes any labeled container and any supplemental labeling.

(f) "Similar composition" refers to a pesticide product which contains only the same active ingredient(s), or combination of active ingredients, and which is in the same category of toxicity, as a federally registered pesticide product.

(g) "Similar product" means a pesticide product which, when compared to a federally registered product, has a similar composition and a similar use pattern.

(h) "Similar use pattern" refers to a use of a pesticide product which, when compared to a federally registered use of a product with a similar composition, does not require a change in precautionary labeling under § 162.10(h), and which is substantially the same as the federally registered use. Registrations involving changed use patterns are not included in this term.

(i) "Special local need" means an existing or imminent pest problem within a State for which the State lead agency, based upon satisfactory supporting information, has determined that an appropriate federally registered pesticide product is not sufficiently available.

(j) "State" or "State lead agency" as used in this subpart means the State agency designated by the State to be responsible for registering pesticides to meet special local needs under sec. 24(c) of the Act.

#### § 162.152 State registration authority.

(a) *Statutory limitations.* In accordance with sec. 24(c) of the Act, each State is authorized to register a new end use product for any use, or an additional use of a federally registered pesticide product, if the following conditions exist: (1) There is a special local need for the use within the State;

(2) The use is covered by necessary tolerances, exemptions or other clearances under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346 et seq.), if the use is a food or feed use;

(3) Registration for the same use has not previously been denied, disapproved, suspended or cancelled by the Administrator, or voluntarily cancelled by the registrant subsequent to issuance by the Administrator of a notice of intent to cancel that registration, because of health or environmental concerns about an ingredient contained in the pesticide product, unless such denial, disapproval, suspension or cancellation has been superseded by subsequent action of the Administrator; and

(4) The registration is in accord with the purposes of FIFRA.

(b) *Types of registrations—(1) Amendments to federal registrations.*

(i) Subject to the provisions of paragraphs (a) and (b)(1)(ii)(iv) of this section, States may register any new use of a federally registered pesticide product.

(ii) A State may register any use of a federally registered product for which registration of other uses of the product was denied, disapproved, suspended, or

cancelled by the Administrator, provided that the State may register a use not considered by the Administrator in reaching such a determination only after the State consults with appropriate EPA personnel.

(iii) Except as provided in paragraph (a)(3) of this section, a State may register any use of a federally registered product for which registration of some or all uses has been voluntarily cancelled by the registrant, provided that a State may register such a use only after the State has consulted with appropriate EPA personnel.

(iv) A State may not register an amendment to a federally registered manufacturing-use product.

(2) *New products.* (i) Subject to the provisions of paragraph (a) and subparagraphs (b)(2) (ii) and (iii) of this section, a State may issue registrations to meet special local needs for the following types of new end-use products: (A) A product which is identical in composition to a federally registered product, but which has differences in packaging, or in the identity of the formulator.

(B) A product which contains the same active and inert ingredients as a federally registered product, but in different percentages.

(C) Subject to the requirements of paragraph (b)(2)(ii) of this section, a product containing a new combination of active, or active and inert, ingredients.

(ii) A State may register a new product only if each of the active ingredients in the new product is present because of the use of one or more federally registered products and if each of the inert ingredients in the new product is contained in a federally registered product.

(iii) A State may not register a new manufacturing-use product.

(iv) A State may register any use of a new product containing an ingredient described in paragraph (a)(3) of this section, if the new product registration is for a formulation or a use not included in the denial, disapproval, suspension, or cancellation, or if the federally registered use was voluntarily cancelled without a prior notice of intent to cancel by the Administrator. However, a formulation or use of such a new product which was not considered by the Administrator during such proceedings, or which was not the subject of a notice of intent to cancel, may be registered by a State only after the State consults with appropriate EPA personnel regarding the registration application.

(c) *Effect of State registration.* (1) A State registration issued under FIFRA sec. 24(c) which meets the conditions described in paragraphs (a) and (b) of this section, and which is not disapproved by the Administrator under § 162.154, shall be considered a federal registration, but shall authorize distribution and use only within that State. Accordingly, such registrations are subject to all provisions of FIFRA which apply to currently registered products, including provisions for cancellation and suspension of registrations, and reregistration of products.

(2) A State may require, as a condition of distribution or use of a pesticide product within the State, that the pesticide product be registered under State law as well as under FIFRA. Neither FIFRA sec. 24(c) nor §§ 162.150–162.156 affects a State's right under its own law to revoke, suspend, cancel, or otherwise affect such a registration issued under State law. However, the federal registration, whether issued under FIFRA sec. 3 or 24(c), is not affected by such a State action.

**§ 162.153 State registration procedures.**

(a) *Application for registration.* States shall require all applicants for registration to submit the following information: (1) Name and address of the applicant and any other person whose name will appear on the labeling or in the directions for use.

(2) The name of the pesticide product, and, if the application is for an amendment to a federally registered product, the EPA registration number of that product.

(3) A copy of proposed labeling, including all claims made for the product as well as directions for its use to meet the special local need, consisting of: (i) For a new product, a copy of the complete proposed labeling; or,

(ii) For an additional use of a federally registered product, a copy of proposed supplemental labeling and a copy of the labeling for the federally registered product.

(4) The complete formula of the product, if the application is for a new product registration.

(5) Any other information which is required to be reviewed prior to registration under this section.

(b) *Special local need determination.* In reviewing any application for registration, the State shall determine whether there is a special local need for the registration. Situations which a State may consider as not involving a special local need may include, but are not limited to, applications for registrations to control a pest problem present on a nationwide basis, or for use of a pesticide product registered by other States on an interregional or nationwide basis.

(c) *Unreasonable adverse effects determination.* (1) Prior to issuing a registration in the following cases, the State shall determine that use of the product for which registration is sought will not cause unreasonable adverse effects on man or the environment, when used in accordance with labeling directions or widespread and commonly recognized practices: (i) For use of a product which has a composition not similar to any federally registered product.

(ii) For use of a project involving a use pattern not similar to any federally registered use of the same product or of a product with a similar composition.

(iii) For use of a product for which other uses of the same product, or of a product with a similar composition, have had registration denied, disapproved, suspended, or cancelled by the Administrator.

(2) Determinations required by paragraph (c)(1) of this section shall be based on data and criteria consistent with those sections of subpart A of this part, and of Part 163 of this chapter, applicable to the type of product or use under consideration. Such determinations may also involve consideration of the effect of the anticipated classification of the product or use under § 162.153(h).

(d) *Efficacy determination.* Prior to registration of any use of a product for public health purposes—that is, a use which could result in substantial harm to the public health if the product does not perform its intended function, the State shall determine that the product warrants the claims made for it in the registration application. Such determinations shall be based on criteria specified in applicable sections of subpart A and of Part 163 and on any additional criteria established by the State.

(e) *Labeling requirements.* (1) Prior to issuing any registration, the State shall review the proposed labeling submitted with the application to determine compliance with this paragraph. In addition, the State shall review a copy of the final printed labeling as soon as practical after a registration is issued in order to verify compliance with this paragraph.

(2) For a new product, the State must, as a condition of the registration, require that the product be accompanied from the time it enters the stream of commerce by labeling meeting all applicable criteria of § 162.10. New product labeling must all contain: (i) A

statement identifying the State where registration is to be valid.

(ii) The special local need registration number assigned by the State.

(3) Except as provided in paragraph (e)(4) of this section, as a condition for a registration of an additional use of a federally registered product, the State must require that at the time of sale to users, labeling from the federally registered product be accompanied by supplemental labeling which contains:

(i) A statement identifying the State where registration is valid.

(ii) Directions for use to meet the special local need which satisfy the criteria of § 162.10(i).

(iii) The trade name of the product.

(iv) The name and address of the section 24(c) registrant.

(v) The EPA registration number of the federally registered product.

(vi) The special local need registration number assigned by the State.

(vii) A statement prohibiting use of the product in a manner inconsistent with all applicable directions, restrictions, and precautions found in the labeling of the federally registered product and accompanying supplemental labeling.

(4) When a federally registered product is already in the stream of commerce at the time the State issues a registration for an additional use of that product, the State must ensure that supplemental labeling for the additional use, meeting the criteria of paragraph (e)(3) of this section, is made available to purchasers and users of the product within 45 days of the date on which the State approves the final printed supplemental labeling.

(5) If a State classifies for restricted use a product or use registered by the State, which is not required to be so classified by paragraph (g) of this section, then the State may require supplemental labeling for the product or use containing additional appropriate precautions, and a statement that the product or use is for restricted use within that State.

(f) *Packaging and coloration standards.* All products registered by a State must meet all appropriate packaging standards prescribed by the Administrator under sec. 25(c)(3) of FIFRA. State registered products must also meet all appropriate standards for coloration, or discoloration, established by regulation under sec. 25(c) of FIFRA, including the standards contained in § 162.13. Prior to issuing any registration, the State shall determine that the product will conform to these requirements.

(g) *Classification.* (1) As part of the registration of any product or use, a State shall classify the product or use as a restricted use pesticide if: (i) The product is identical or similar in composition to a federally registered product: (A) For which all federally registered uses have been classified as restricted by the Administrator; or

(B) For which a use similar to the State registered use has been classified as restricted by the Administrator; or

(ii) The State registered product or use meets the criteria for classification as a restricted use pesticide under the applicable provisions of § 162.11(c) (1) through (4).

(h) *Notification and Submission of Data.* (1) Within ten working days from the date a State issues, amends, or revokes a registration, the State shall notify EPA, in writing, of the action. Notification of State registrations, or amendments thereto, shall include the effective date of the registration or amendment, a confidential statement of the formula of any new product, and a copy of the draft labeling reviewed and approved by the State, provided that labeling previously approved by the Administrator as part of a federal registration need not be submitted.

(2) Notification of State registrations or amendments shall be supplemented by the State sending to EPA a copy of the final printed labeling approved by the State within 60 days after the effective date of the registration or amendment.

(3) Notification of revocation of a registration by a State shall indicate the effective date of revocation, and shall state the reasons for revocation.

(4) The Administrator or his designee may request, when appropriate, that a State submit to EPA any data used by the State to determine that unreasonable adverse effects will not be caused when the State registers any use described in paragraph (c)(1) of this section. Within 15 working days of receipt of such a request from EPA, the State shall submit two copies of the requested data.

(i) *Federal Register Publication.* The Administrator shall publish in the **Federal Register**, on a regular basis, a summary of all State registrations made under sec. 24(c) during a previous reporting period established by the Administrator. For each product or use registered, the notice shall indicate:

(1) The name of the product.

(2) The name of the registrant.

(3) The registered use(s) of the product.

(4) The effective date of the State registration.

(5) If the registration is for an additional use of a federally registered product, whether the State registration involves a changed use pattern.

**§ 162.154 Disapproval of State registrations.**

(a) *General disapprovals.* (1) Except as provided in paragraph (b) of this section, the Administrator may disapprove, on any reasonable grounds, any state registration which, when compared to a federally registered product, does not have both a similar composition and a similar use pattern; provided that the Administrator may not disapprove such a registration solely because of a lack of essentiality. Grounds for disapproval of State registrations not involving similar products may include, but are not limited to: (i) Probable creation of unreasonable adverse effects on man or the environment by the registered use.

(ii) Refusal of the registering State to submit information supporting the registration as required by § 162.153(h).

(iii) Failure of information submitted by the State to support the State's decision to issue the registration under standards established by § 162.153.

(2) Prior to disapproval of any State registration under this paragraph, the Administrator shall notify the registering State, in writing, of the Administrator's intent to disapprove, and of the reasons for disapproval. The notice of intent will provide a reasonable time, not less than ten days from the date the notice is received by the State, for the State to respond, and will invite the State to consult with the Administrator or his designee. If the grounds for disapproval are based on actions or omissions by the State, the notice will, if possible, also provide the State with a reasonable amount of time in which to take corrective action, not to exceed the time allowed for disapproval under paragraph (c) of this section.

(3) The registering State may, within ten days of receipt of a notice of intent to disapprove, request that the Administrator, or his designee, consult with appropriate State officials prior to the Administrator's final decision on disapproval. The Administrator will consider any relevant information presented at such a consultation, or in any other timely and appropriate fashion, in deciding whether to withdraw the notice of intent to disapprove.

(b) *Special disapprovals.* (1) The Administrator may disapprove any State registration, including a registration for a similar product, at any time, if the Administrator determines that use of the product under the State registration: (i) Would constitute an imminent hazard.

(ii) May result in a residue on food or feed exceeding, or not covered by, a tolerance, exemption, or other clearance

under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a et seq.).

(2) If the Administrator disapproves a registration under this paragraph, the Administrator shall provide the registering State with written notification of disapproval, in accordance with paragraph (c) of this section, as soon thereafter as practicable. Such notification will specify the grounds for disapproval and invite the State to comment on the decision.

(3) If requested by the State within ten days of its receipt of a notice of disapproval, the Administrator, or his designee, will consult with appropriate State officials. The Administrator may consider any information presented at such a consultation, or in any other appropriate fashion, in determining whether the disapproval should be rescinded.

(c) *Decision and notification of disapproval.* Except as provided in paragraph (b)(1) of this section, the Administrator will make a final decision on disapproval of a State registration, and provide written notification thereof to the State, within 90 days of the effective date of the registration; provided that, if the State does not notify the Agency of a registration within ten days of its effective date, then the Administrator will make a final decision on disapproval within 90 days of the date on which EPA receives notification of the State registration. The notice of disapproval will specify an appropriate date on which the disapproval will become effective. Disapproval may become effective immediately, or at anytime within the period allowed for the Administrator to make a final decision on disapproval. The notice of disapproval will also, when appropriate, give instructions for use or disposal of the pesticide. Each notice of disapproval will be published in the **Federal Register.**

(d) *Effect of disapproval.* If a registration issued by a State is disapproved by the Administrator, that registration will not be valid for any purpose under FIFRA, as of the date the disapproval becomes effective. Thereafter, distribution or sale of the pesticide, in either interstate or intrastate commerce, for uses subject to the disapproval will be a violation of sec. 12(a)(1) of FIFRA.

(e) *Recission of disapproval.* If the Administrator determines, after consultation with the State lead agency, that a registration, previously issued by the State and disapproved by the Administrator, should not have been disapproved under FIFRA, then the Administrator shall rescind the disapproval. The Administrator shall send written notification of the rescission to the State. In addition, the Administrator shall publish notice of any rescission of disapproval in the **Federal Register.**

(f) *Notification of registrants.* Any State that issues a registration which has been disapproved, or which is subject to a notice of intent to disapprove, shall be responsible for notifying the affected registrant of any such notice of intent or disapproval, and of any recession of disapproval by the Administrator.

**§ 162.155 Suspension of State registration authority.**

(a) *General.* (1) If the Administrator finds that a State is not capable of exercising, or has failed to exercise, adequate control over its registration program, so that the State cannot ensure that registrations issued by it will be in accord with the purposes of FIFRA, then the Administrator may suspend the State's authority to register pesticides under sec. 24(c) of the Act. Registrations issued by the State after suspension of its authority will not be considered valid under FIFRA. Registrations issued by the State prior to suspension will not be affected by the suspension.

(2) The Administrator may suspend all or any part of a State's registration authority, as appropriate.

(b) *Grounds for Suspension.* (1) The Administrator may suspend a State's registration authority due to lack of, or failure to exercise, adequate control by the State over its sec. 24(c) registration program. Adequate control includes, but is not limited to, all of the following: (i) Access to appropriate scientific and technical personnel to review data and make determinations as required by § 162.153.

(ii) Registration procedures satisfying § 162.153.

(iii) Complete and accurate records of State registrations.

(iv) Adequate legal authority: (A) To deny, suspend, revoke, or amend a State registration when the registration is not in compliance with FIFRA, this subpart, or State law, or when necessary to prevent unreasonable adverse effects on the environment.

(B) To enter, at reasonable times, by consent, warrant, or other legal means, any establishment where pesticides are produced or held for distribution or sale, to inspect, sample, and observe whether pesticides are being produced or distributed in compliance with FIFRA, this subpart, State law, and the terms of any State registration.

(2) The Administrator may suspend a State's registration authority if the State fails to exercise the controls specified in paragraph (b)(1) of this section, or if the State refuses to correct within a reasonable time any other significant deficiencies in its regulatory program, as specified by the Administrator in a notice of intent to suspend.

(c) *Procedures for Suspension.* (1) Prior to suspending the registration authority of any State, the Administrator will notify the State lead agency, in writing, of the Administrator's intent to suspend, and of the specific grounds for suspension. The notice of intent will specify whether the suspension will be complete or partial, and will provide the State an opportunity to respond and a reasonable amount of time, not less than 30 days from the date the notice is received, in which to correct the deficiencies specified in the notice. If the State does not correct the specified deficiencies within the reasonable time allowed by the notice, or if the Administrator has not withdrawn the notice of intent before that time, the notice of intent will be published in the **Federal Register,** and the public given an opportunity to comment thereon.

(2) If requested by the affected State lead agency within 30 days of receipt of the notice of intent to suspend, an informal consultation between appropriate State and EPA officials will be held to discuss the proposed suspension. In such a case, the Administrator shall not make a final decision on the proposed suspension until after the consultation. The Administrator shall consider all relevant information presented at the consultation, or in any other appropriate manner, in determining whether to suspend the State's authority. If the Administrator determines, on the basis of such information, that the deficiencies listed in the notice of intent no longer exist, or will be corrected in a reasonable time, then the Administrator will withdraw, in writing, the notice of intent to suspend.

(3) Within ten days of the date a notice of intent to suspend is published in the **Federal Register,** a State may request a public hearing to consider the proposed suspension. If a hearing is requested, the Administrator will:

(i) Schedule a public hearing to be held in that State.

(ii) Publish in the **Federal Register** a notice announcing the date, time, and location of the hearing.

(iii) Appoint a presiding officer who shall preside over the hearing.

(iv) Prescribe additional, appropriate procedures for the conduct of the hearing, including procedures for the presentation of relevant material evidence from the State, EPA, or

members of the public who would be affected by the outcome of the hearing. Evidence may be presented in either oral or written form, at the discretion of the Administrator.

(4) Following the close of any hearing held under paragraph (c)(3) of this section, the presiding officer shall make a recommended decision that the State's authority to register pesticides under sec. 24(c) of FIFRA be suspended, in whole or in part, or that the State's authority not be suspended and that the notice of intent to suspend be withdrawn.

(5) Any recommended decision made by a presiding officer under paragraph (c)(4) of this section may be appealed to the Administrator within 30 days after its issuance by the State or by EPA. Any recommended decision which is not appealed, or which the Administrator does not review on his own initiative, will become a final Agency action 30 days after its issuance.

(6) If no hearing is requested under paragraph (c)(3) of this section, or if a recommended decision is appealed to the Administrator under paragraph (c)(5) of this section, the Administrator shall issue a final order either suspending the State's authority to register pesticides under section 24(c) of FIFRA, in whole or in part, or withdrawing the notice of intent to suspend.

(7) Any final order suspending State registration authority, issued under paragraph (c) (5) or (6) of this section, will specify the grounds therefor and an effective date for the suspension. If the suspension is merely partial, the notice of suspension will specify the types of registrations which will not be recognized as valid under sec. 24(c). All final orders issued under paragraph (c) (5) or (6) will be published in the **Federal Register.**

(d) *Termination of suspension.* Suspension of a State's authority will be effective for the period specified in the notice of suspension, or if no period was specified, until such time as the Administrator is satisfied that the State can and will exercise adequate control over its program. In the latter case, the Administrator will notify the State that the suspension is terminated, or that it will be terminated on a specific date. In either case, the Administrator will publish a notice of the termination of suspension in the **Federal Register.**

(e) *Judicial review.* Any State whose authority to register pesticides has been finally suspended by the Administrator may seek judicial review of the Administrator's decision under sec. 16 of FIFRA, at any time prior to termination of the suspension. Such suspension shall remain in effect during the period of judicial review unless otherwise ordered by the Administrator.

**§ 162.156 General requirements.**

(a) *Requirements for distribution and use.* (1) Any product whose State registration has been issued in accordance with §§ 162.152 and 162.153 may be distributed and used in that State, subject to the following provisions of the Act and the regulations promulgated thereunder:

(i) Sec. 12(a)(1) (A) through (E), in accordance with:

(A) Sec. 2(q)(1) (A) through (G).

(B) Sec. 2(q)(2) (A) through (D).

(ii) Sec. 12(a)(2) (A) through (G) and (I) through (P).

(2) A product or use classified by a State for restricted use under § 162.153(g) may be used only by, or under the direct supervision of, an applicator certified under a plan approved by EPA in accordance with sec. 4 of FIFRA.

(3) State registrations which are not issued in accordance with § 162.152 (a) and (b)(2) (i), (ii) and (iii) are not authorized by section 24(c) and are not considered valid for any purposes under FIFRA. When the Administrator determines that a registration is invalid, the Administrator shall notify the registering State that the registration is invalid, and may specify the reason for the invalidity.

(b) *Establishment registration requirements.* No person may produce any pesticide, including any pesticide registered by a State under section 24(c), unless the establishment in which it is produced is registered by the Administrator in accordance with sec. 7 of FIFRA and 40 CFR Part 167.

(c) *Books and records requirements.* All producers of pesticides, including those producers of pesticides registered by States under sec. 24(c), must maintain records in accordance with the requirements imposed under sec. 8 of FIFRA and 40 CFR Part 169.

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Part VI

# Department of Transportation

## Federal Highway Administration

## National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices

**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**23 CFR Parts 625 and 655]**

**[FHWA Docket No. 81-2]**

## National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Advance notice of proposed amendments to the Manual on Uniform Traffic Control Devices.

**SUMMARY:** The FHWA is iviting comments on requests for changes on the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD contains the standards for traffic control devices and has been approved by the FHWA for use on all streets and highways open to public travel.

**DATE:** Comments must be received on or before July 15, 1981.

**ADDRESS:** Submit written comments, preferably in triplicate, to FHWA Docket No. 81-2, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Mr. James C. Partlow, Office of Traffic Operations, (202) 426-0411, or Mr. Lee J. Burstyn, Office of the Chief Counsel, (202) 426-0754, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The FHWA prepares and issues the national standards for traffic control devices used on all streets and highways open to public travel. These standards are published in the MUTCD which has been incorporated by reference into Title 23, Code of Federal Regulations (CFR), Parts 625 and 655. the MUTCD is available for inspection and coying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($18.00). The FHWA both receives requests and initiates recommendations for changes (i.e., amendments) to the MUTCD.

This advance notice contains requests for changes to the MUTCD which were received or originated by the FHWA. These requests are being processed in accordance with the informal rulemaking procedure of the Administrative Procedure Act (5 U.S.C. 553) and the Department of Transportation procedures issued pursuant to Executive Order 12044.

Each request has been assigned an identification number which indicates, by Roman numeral, the organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received. This advance notice is being issued to provide the public with an opportunity to participate in the processing of requests for amendments to the MUTCD. Based upon comments received and on its own review, the FHWA will prepare a notice of proposed amendments which will provide recommendations for the disposition of the suggested amendments to the MUTCD. Any final amendments which result from that action will be published in the **Federal Register** and incorporated by reference into title 23, CFR.

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### 1. Signs (Part II)

(a) *Request II-38 (Chng.) Identifying Left-Hand Exits on Interchange Sequence Signs.*

This request from the Michigan Department of Transportation (MiDOT) is for a change in the MUTCD to provide guidance on and a method for identifying left-hand exits on interchange sequence signs for urban freeways. The request was originally for an interpretation of Section 2F-31 of the MUTCD. Since neither Section 2F-31 nor other sections of the MUTCD address this subject, the FHWA has modified the request to a request for a change. The MUTCD recommends the use of Interchange Sequence signs where interchanges are closely spaced. When used, the signs should identify and show the street names and distances for the next three exits on the freeway or expressway. Neither the text nor the typical sign illustrations in the MUTCD provide guidance on a manner for identifying left-hand exits.

The MiDOT pointed out that the MUTCD provides guidance for identifying left-hand exits on freeways and expressways in rural and other areas where the interchanges are far enough apart to preclude the need for Interchange Sequence signs. MiDOT also noted that without specific guidance at closely spaced interchanges, motorists assume the approaching exit is on the right-hand side and make erroneous lane changes before realizing the mistake through reading the information provided on subsequent guide signs.

(b) *Request II-52 (Chng.) Beginning of Pavement Width Transition Sign.*

The Michigan Department of Transportation (MiDOT) has requested that the MUTCD be amended to include a standard warning sign to mark the physical beginning point of a pavement width transition. The proposed sign has three black downward slanting arrows on a yellow diamond shaped background supplemented by a separate plaque with the message LANE ENDS.

Section 2C-19 of the MUTCD presently includes signs for use in providing motorists with advance warning of pavement width transitions, that is, locations where there is a reduction in the number of traffic lanes in the direction of travel on a multilane highway. The MUTCD recommends that these advance warning signs should be placed 250 feet or more in advance of the physical beginning point of the pavement width transition in order to provide drivers with sufficient time comprehend and react to the sign messages. The MiDOT suggests that this advance signing should be followed by the proposed sign to identify the exact location of the beginning of the transition and to provide motorists with better warning of the condition. Supplementing this request, the MiDOT suggests appropriate editorial changes for Section 2C-19 and illustration changes in Figures 3-10 (page 3B-13) and 6-13a (page 3B-23) of the MUTCD. The MiDOT also recommends that contingent upon approval of the proposed sign, the RIGHT (LEFT) LANE ENDS sign (Sign W9-1, page 2C-10 in the MUTCD) should be considered an alternate rather than a supplement to the LANE ENDS MERGE RIGHT (LEFT)

Sign (sign W–9–2, page 2C–10 in the MUTCD) and that the pavement Width Transition symbol sign (sign W4–2, page 2C–10 in the MUTCD) should be described in detail in the text of Section 2C–19 of the MUTCD.

(c) *Request II–53 (Chng.) Mandatory Movement Signs.*

This request from an individual is for an amendment to the MUTCD to provide standard signs for mandatory turning movements at intersections. The requester noted that there are many intersections where all traffic is required to make a single turning movement (for example, all traffic must turn right), while other movements (straight ahead and left turn) are prohibited. Since the MUTCD does not provide a specific sign for this purpose, some jurisdictions use regulatory signs with legends such as RIGHT TURN ONLY or ALL TRAFFIC with an appropriate arrow. These signs are permissible in the MUTCD under Section 2B–44, Other Regulatory Signs. Other jurisdictions use the Lane Use Control Sign (R3–5) (turn arrow with the word ONLY) of Section 2B–17. However, this sign is intended for overhead mounting to control traffic movement in one lane only. A directional arrow within a colored ring is used in Canada to designate a mandated movement.

The requester suggests that a new section providing standard mandatory turn signs should be added to the MUTCD, that symbol signs are preferable to word legend signs, that a minimum of two signs should be required at each installation, and that the R3–3 NO TURNS signs (mandatory straight ahead movement) should be changed to a symbol sign if a standard symbol is adopted for mandatory turn signs.

(d) *Request II–54 (Chng.) Add Percent Grade Within Hill Sign.*

The Hill sign (sign W7–1, page 2C–13 of the MUTCD) may be supplemented by several signs with appropriate legends such as the percent of grade (MUTCD sign W7–3, page 2C–13) or the percent of grade plus the length of grade (MUTCD sign W7–3b, page 2C–14). The Utah Department of Transportation (UDOT) has requested an amendment to the MUTCD to permit the display of the percent of grade within the Hill sign so that when supplemental signs such as NEXT 5 MILES or 5 MILES AHEAD are installed a more complete message will be conveyed. For example, at a location where a mild grade and a steeper grade are separated by a short level section, motorists could be warned of the remaining length of the mild grade, and then, by an additional sign assembly, be warned of the distance to the steeper grade. In each case, the percent of grade could also be displayed.

The UDOT suggests that this usage of the proposed sign and supplementary signs would encourage motorists to maintain a slower speed in the short level section.

**2. Markings (Part III)**

(a) *Request III–22 (Chng.) Pavement Marking Symbol for School Crossing.*

Section 3B–17 of the MUTCD states that symbol messages are generally preferable to word messages for pavement markings used to warn, guide, or regulate traffic. The same section includes the pavement marking word message SCHOOL as appropriate for use where warranted, but does not provide an alternate marking symbol.

The Utah Department of Transportation (UDOT) has developed a symbol for this purpose and has requested that the MUTCD be amended to permit use of the proposed symbol as an alternate to the marking word message SCHOOL. The UDOT suggested that use of the proposed symbol would reduce the time and material requried for installation of the message and that the symbol would last longer since it would not be in the wheel tracks of vehicles using the roadway. The proposed symbol is a suitable elongation of the standard walking children symbol adopted for use on the School Advance sign (S1–1).

(b) *Request III–23 (Chng.) Mounting Height of Object Markers.*

This request, originated by the FHWA, is for an amendment to the MUTCD to specify the minimum mounting height of object markers. Object markers are traffic control devices used to mark obstructions within or adjacent to a roadway.

Request III–7 (Chng.) Object Markers was published in the Federal Register on January 24, 1980 (45 FR 5750), in a notice of proposed amendments to the MUTCD (FHWA Docket No. 79–35). Request III–7 (Chng.) included among others, a request for the determination of the appropriate mounting height for Type 3 Object Markers. The FHWA commented in that notice that Section 1A–4 and other unspecified sections of the MUTCD provided sufficient guidance on this matter. After an additional review of the comments received in Docket 79–35 and information from other sources, the FHWA has determined that better guidance is needed in the MUTCD.

The FHWA is now inviting comments on a proposal to amend Section 3C–1 of the MUTCD to specify mounting heights. The FHWA suggests a height of 4 feet from the pavement edge to the bottom of the object marker when used within the roadway or within 6 feet of the shoulder or curb, and a height of 4 feet above the ground when used 6 feet or more from the shoulder or curb.

These heights are suggested by the need to maintain the effectiveness of the devices by providing a vertical clearance area for weeds, plowed snow, and the splash pattern resulting from wet pavements. The FHWA suggests that when object markers are applied directly to a hazardous object, the mounting height should be permitted to vary according to need.

(c) *Request III–24 (Chng.) Delineators on Truck Escape Ramps.*

Truck escape ramps are specially constructed vehicle lanes which leave the alignment of the main roadway and are intended as recovery areas where runaway trucks may be brought safely under control. Approximately 60 runaway truck ramps are now in operation in the United States and others are in the planning stage.

The Institute of Transportation Engineers (ITE) has requested an amendment to the MUTCD to provide a standard for the color and spacing of delineators used to indicate the edge of runaway truck ramps. The ITE stated that different States are using a variety of colors on delineators to mark the edge of their ramps and that it is important that a standard color be established for this function.

Report No. FHWA–TS–79–201, Emergency Escape Ramps for Runaway Heavy Vehicles (1978),[1] suggests that delineation for escape ramps is needed, but must be different from the standard white (for right edge of roadway) and yellow (for left edge of roadway) now provided in the MUTCD. Motorists not wishing to use the ramps have been led into the ramps by the standard white and yellow delineations.

**3. Signals (Part IV)**

(a) *Request IV–33 (Chng.) Single Portable Traffic Light.*

The MUTCD requires that all traffic signal installations must provide a minimum of two signal faces for through traffic for each approach to an intersection. This request from Lifeguard, Inc., if for an amendment of Section 4B–12–1 of the MUTCD to provide for the use of a single signal face on a portable mounting for control of traffic through construction and maintenance zones. The single faced portable signal could be used in place of a single flagger in controlling traffic in work areas.

(b) *Request IV–25 (Chng.) Speed Limit Sign Beacon.*

The Utah Department of Transportation has requested a change in Section 4E–2 and Section 7D–24 of the

[1] Available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

MUTCD to permit the use of horizontally aligned Speed Limit Sign Beacons when the Speed Limit sign is longer vertically than horizontally. The MUTCD presently permits horizontal alignment of Speed Limit Sign Beacons only when the Speed Limit sign is longer horizontally than vertically.

(c) *Request IV–27 (Chng.) Rules for Phasing and Sequencing of Traffic Signals.*

The Signals Technical Committee of the National Committee on Uniform Traffic Control Devices completed a review resulting in a substantial proposal for a well defined set of parameters for phasing and sequencing of traffic signals. The committee has requested that the MUTCD be revised to incorporate these changes which it believes will provide more uniformity in the phasing and sequencing of traffic signals.

The following list enumerates the recommended changes to the MUTCD by the Signals Technical Committee:

[Section 4B–6 Application of Signal Indications]

1. Delete paragraph 5(a) and redesignate paragraphs 5(b) through 5(f) to read as paragraphs 5(a) through 5(e), respectively.

2. Revise new paragraph 5(a) to read as follows:

(a) A steady YELLOW ARROW indication shall be used following a GREEN ARROW indication which has been displayed simultaneously with a CIRCULAR RED indication in the same signal face. A GREEN ARROW need not be terminated by a displayed interval if a CIRCULAR GREEN permitting the turn to continue on a permissive basis is displayed in the same signal face simultaneously with the GREEN ARROW or immediately following the GREEN ARROW termination.

3. Add new paragraphs 5(f) and (g) to read as follows:

(f) A GREEN ARROW shall not be displayed when any conflicting movements has a CIRCULAR GREEN or CIRCULAR YELLOW or YELLOW ARROW.

(g) A YELLOW ARROW shall not be displaed when any conflicting movement has a CIRCULAR GREEN or CIRCULAR YELLOW.

4. Delete paragraph 6(e).

5. Add to the very end of Section 4B–6, paragraph 6, the following new wording:

The following signal indications shall not be displayed on any signal face, either alone, or in combination with any other indication:

(a) Straight-through RED ARROW.

(b) Straight-through YELLOW ARROW.

[Section 4B–9 Arrangement of Lenses in Signal Faces]

6. Delete from paragraphs 1 and 2 the words "Straight-through" YELLOW ARROW.

7. Delete arrangement "t" from Figure 4–1 on page 4B–9.

[Section 4B–12 Number and Location of Signal Faces]

8. Add a new paragraph 13 to read as follows:

13. If a signal face(s) displays control for a particular vehicular movement during any interval of a sequence, it must display control for that same movement during all intervals of the sequence.

[Section 4B–15 Vehicle Change Interval]

9. Add a new paragraph which addresses the question of YELLOW ARROW to GREEN ARROW, at the end of the section to read as follows:

A YELLOW ARROW shall not be terminated by a GREEN ARROW. It may be terminated by a CIRCULAR GREEN (if the movement controlled by the arrow is to continue on a permissive basis), a CIRCULAR YELLOW, a CIRCULAR RED, or a RED ARROW.

[Section 4B–16 Unexpected Conflicts During Green Interval]

10. Add a new paragraph, which expands the ruling on unexpected conflicts, at the end of the section to read as follows:

During a change interval, entry into an intersection is not controlled or prohibited. It is, therefore, necessary to define responsibilities during the change interval as being similar to those which exist during the green interval.

[Section 4B–18 Flasing Operation of Traffic Control Signals]

11. Add a new paragraph, which provides additional guidance in the use of flashing operations, at the beginning of the section to read as follows:

The mode of operation of a traffic signal operation may be exclusively steady—stop and go—or it may be exclusively flash mode. The initiation and termination of flashing displays shall follow the same rules as the steady modes with flashing yellow considered the same as steady green and flashing red considered the same as steady red.

[Section 4B–19 Continuity of Operation]

12. Delete the first paragraph of this section and add a new first paragraph to read as follows:

A traffic signal installation, except as provided below, shall be operated in an activated mode at all times.

[Section 4B–22 Priority Control of Traffic Signals]

13. Add a new paragraph which permits a priority change from yellow to green, at the end of this section to read as follows:

When a priority sequence is initiated, the display may proceed from Steady Yellow to Steady Green. This exception does not apply to the termination of priority or to any display during priority operation.

**4. Traffic Control Systems for Railroad-Highway Grade Crossings (Part VIII)**

*Request VIII–9 (Chng.) Elevation of top of Foundation for Flashing Lights and Gates.*

This request from the Florida Department of Transportation is for the deletion of the requirement that the top of the foundation for flashing light signal and gate supports shall be at the same elevation as the crown of the roadway. The request, if adopted, would require revision of Figures 8–3, 8–4, and 8–5 on pages 8C–2, 8C–3 and 8C–4 respectively in the MUTCD. The requirement that the top of the foundation shall be no more than 4 inches above the finished ground would not be changed.

The crown of the roadway can still be used as a reference point for determining vertical clearance for cantilevered flashing light signals (Figure 8–4), the vertical location of gates in the down position (Figure 8–5), and the vertical location of flashing light signals (Figure 8–3). As an alternative, some other reference point could be specified.

This advance notice of proposed amendments to the MUTCD is issued under the authority of 23 U.S.C. 109(d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b).

Note—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. Due to the preliminary nature of this inquiry, a regulatory evaluation has not been prepared at this time. The expected impact of the changes requested is so minimal that a full evaluation does not appear to be warranted. The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: January 2, 1981.

**John S. Hassell, Jr.,**

*Federal Highway Administrator.*

[FR Doc. 81-367 Filed 1-6-81; 8:45 am]

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This is the fourth and final cumulative list of public laws for the second session of the 96th Congress. The continuing listing of public laws published after enactment in the "Reader Aids" section of the **Federal Register** will be maintained on a current basis. Any comments may be addressed to the Director, Office of the Federal Register, Washington, D.C. 20408.

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
|---|---|---|---|---|---|
| Jan. 28 | H.J.Res. 478 | 96-188 | 94:3 | To extend by sixty days the expiration date of the Defense Production Act of 1950. | $1.00 |
| Feb. 8 | H.R. 4320 | 96-189 | 94:4 | To consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming. | 1.25 |
| Feb. 12 | S. 423 | 96-190 | 94:17 | Dispute Resolution Act. | 1.25 |
| Feb. 15 | H.R. 5176 | 96-191 | 94:27 | General Accounting Office Personnel Act of 1980. | 1.00 |
| | S. 1300 | 96-192 | 94:35 | International Air Transportation Competition Act of 1979. | 1.25 |
| Feb. 18 | H.R. 2440 | 96-193 | 94:50 | Aviation Safety and Noise Abatement Act of 1979. | 1.25 |
| Feb. 21 | S.J.Res. 108 | 96-194 | 94:61 | To validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups. | 1.00 |
| Feb. 25 | S. 1452 | 96-195 | 94:63 | To extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance. | 1.00 |
| Feb. 28 | H.J.Res. 469 | 96-196 | 94:64 | Designating February 19, 1980, as "Iwo Jima Commemoration Day." | 1.00 |
| | H.J.Res. 477 | 96-197 | 94:65 | To authorize and request the President to issue a proclamation honoring the memory of Walt Disney on the twenty-fifth anniversary of his contribution to the American dream. | 1.00 |
| Mar. 5 | H.J.Res. 267 | 96-198 | 94:66 | To provide for designation of Friday, March 7, 1980, as "Teacher Day, United States of America". | 1.00 |
| | H.R. 3757 | 96-199 | 94:67 | To establish the Channel Islands National Park, and for other purposes. | 1.25 |
| Mar. 6 | S.J.Res. 109 | 96-200 | 94:78 | To provide for the designation of October 3, 1980, as "American Enterprise Day". | 1.00 |
| | H.R. 6374 | 96-201 | 94:79 | To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ambassador Kenneth Taylor. | 1.00 |
| Mar. 8 | S.J.Res. 43 | 96-202 | 94:80 | To proclaim March 21, 1980, "National Energy Education Day". | 1.00 |
| Mar. 10 | S. 1850 | 96-203 | 94:81 | To authorize the conveyance of lands in the city of Hot Springs, Arkansas. | 1.00 |
| Mar. 11 | H.J.Res. 434 | 96-204 | 94:83 | To authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week". | 1.00 |
| Mar. 12 | H.R. 3756 | 96-205 | 94:84 | To authorize appropriations for certain insular areas of the United States, and for other purposes. | 1.25 |
| Mar. 13 | S.J.Res. 149 | 96-206 | 94:93 | To recognize the Honorable Carl Vinson on the occasion of the christening of the United States Ship Carl Vinson, March 15, 1980. | 1.00 |
| | H.J.Res. 493 | 96-207 | 94:94 | Providing for the appointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution. | 1.00 |
| | H.J.Res. 494 | 96-208 | 94:95 | Providing for the appointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution. | 1.00 |
| Mar. 14 | H.R. 4337 | 96-209 | 94:96 | To provide for the transfer of the Foreign Claims Settlement Commission of the United States to the United States Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes. | 1.00 |

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
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| Mar. 17 | H.R. 5913 | 96-210 | 94:100 | To amend section 502(a) of the Merchant Marine Act, 1936. | 1.00 |
| | S. 1792 | 96-211 | 94:101 | To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal. | 1.00 |
| | S. 643 | 96-212 | 94:102 | Refugee Act of 1980. | 1.50 |
| Mar. 18 | H.R. 3398 | 96-213 | 94:119 | Agricultural Adjustment Act of 1980. | 1.00 |
| Mar. 24 | S. 2225 | 96-214 | 94:122 | To provide that receipts from certain sales of items by the Sergeant at Arms of the Senate to Senators and committees and offices of the Senate shall be credited to the appropriation from which such items were purchased. | 1.00 |
| Mar. 25 | S. 1454 | 96-215 | 94:123 | To authorize the voluntary interservice transfer of officers between the commissioned corps of the National Oceanic and Atmospheric Administration and the Armed Forces, to authorize advance payments of pay and allowances to officers of such corps under the same conditions that apply to advance payments to members of the Armed Forces, and to provide officers of such corps the same unemployment compensation benefits that apply to members of the Armed Forces. | 1.00 |
| Mar. 27 | S. 1682 | 96-216 | 94:125 | To amend the Act of August 9, 1955 (69 Stat. 539)(25 U.S.C. 415), as amended, to authorize a ninety-nine-year lease for the Moses Allotment Numbered 10, Chelan County, Washington. | 1.00 |
| | S. 2222 | 96-217 | 94:126 | To extend the time for commencing actions on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or restricted status. | 1.00 |
| Mar. 28 | H.J.Res. 414 | 96-218 | 94:127 | Authorizing the President to proclaim May 1, 1980, "National Bicycling Day". | 1.00 |
| | H.J.Res. 514 | 96-219 | 94:128 | Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission. | 1.00 |
| Mar. 30 | S. 2269 | 96-220 | 94:129 | To extend the Emergency Agricultural Credit Adjustment Act of 1978, and for other purposes. | 1.00 |
| Mar. 31 | H.R. 4986 | 96-221 | 94:132 | Depository Institutions Deregulation and Monetary Control Act of 1980. | 3.00 |
| Apr. 1 | H.R. 2797 | 96-222 | 94:194 | Technical Corrections Act of 1979. | 2.00 |
| Apr. 2 | H.R. 3919 | 96-223 | 94:229 | Crude Oil Windfall Profit Tax Act of 1980. | 3.25 |
| | H.J.Res. 463 | 96-224 | 94:309 | Designating the week of October 5 through October 11, 1980, as "National Diabetes Week". | 1.00 |
| Apr. 3 | H.J.Res. 520 | 96-225 | 94:310 | To extend by sixty days the expiration date of the Defense Production Act of 1950. | 1.00 |
| | H.R. 24 | 96-226 | 94:311 | General Accounting Office Act of 1980. | 1.00 |
| | H.R. 4996 | 96-227 | 94:317 | Paiute Indian Tribe of Utah Restoration Act. | 1.00 |
| | S. 1515 | 96-228 | 94:323 | To authorize the striking of Bicentennial medals. | 1.00 |
| Apr. 7 | H.R. 2676 | 96-229 | 94:325 | Environmental Research, Development, and Demonstration Authorization Act of 1980. | 1.00 |
| Apr. 8 | H.R. 6585 | 96-230 | 94:329 | To extend the reorganization authority of the President under chapter 9 of title 5. | 1.00 |
| | S.J.Res. 131 | 96-231 | 94:330 | Designating April 10, 1980, as "ORT Centennial Day". | 1.00 |
| Apr. 10 | H.R. 5794 | 96-232 | 94:331 | To designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building". | 1.00 |
| | S.J.Res. 97 | 96-233 | 94:332 | Designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust". | 1.00 |

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
|---|---|---|---|---|---|
| Apr. 11 | S. 2427 | 96-234 | 94:333 | To encourage greater participation in the farmer-held reserve program for corn and wheat, and for other purposes. | 1.00 |
| Apr. 12 | H.R. 3824 | 96-235 | 94:335 | To amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval. | 1.00 |
| Apr. 22 | H.R. 6029 | 96-236 | 94:336 | Providing for the implementation of the International Sugar Agreement, 1977, and for other purposes. | 1.00 |
| Apr. 24 | H.J.Res. 474 | 96-237 | 94:338 | To authorize and request the President to issue a proclamation designating April 21 through April 28, 1980, as "Jewish Heritage Week". | 1.00 |
| | H.R. 6464 | 96-238 | 94:339 | To authorize the Secretary of the Army to convey to the Michigan Job Development Authority the lands and improvements comprising the Michigan Army Missile Plant in Sterling Heights, Macomb County, Michigan, in return for two new office buildings at the Detroit Arsenal, Warren, Michigan. | 1.00 |
| Apr. 30 | H.R. 7140 | 96-239 | 94:341 | To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for two months the date on which the Pension Benefit Guaranty Corporation must pay benefits under terminated multiemployer plans. | 1.00 |
| May 1 | H.J.Res. 541 | 96-240 | 94:342 | Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission. | 1.00 |
| May 3 | S. 2637 | 96-241 | 94:343 | To ensure that the compensation and other emoluments attached to the office of Secretary of State are those which were in effect January 1, 1977. | 1.00 |
| May 5 | H.R. 4197 | 96-242 | 94:344 | To amend the Wool Products Labeling Act of 1939 with respect to recycled wool. | 1.00 |
| May 16 | H.J.Res. 545 | 96-243 | 94:345 | Making an urgent appropriation for the food stamp program for the fiscal year ending September 30, 1980, for the Department of Agriculture. | 1.00 |
| May 19 | H.R. 126 | 96-244 | 94:346 | To permit the Secretary of the Interior to accept privately donated funds and to expend such funds on property on the National Register of Historic Places. | 1.00 |
| May 21 | H.R. 5673 | 96-245 | 94:347 | To authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes. | 1.00 |
| May 23 | H.R. 6839 | 96-246 | 94:348 | To authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982. | 1.00 |
| | H.R. 10 | 96-247 | 94:349 | Civil Rights of Institutionalized Persons Act. | 1.00 |
| | H.R. 3928 | 96-248 | 94:355 | To amend the Act of November 8, 1978 (92 Stat. 3095), to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico. | 1.00 |
| May 26 | S. 1309 | 96-249 | 94:357 | Food Stamp Act Amendments of 1980. | 1.25 |
| | S.J.Res. 175 | 96-250 | 94:371 | To extend the expiration date of the Defense Production Act of 1950. | 1.00 |
| | S. 668 | 96-251 | 94:372 | To permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049). | 1.00 |
| May 28 | H.R. 2313 | 96-252 | 94:374 | Federal Trade Commission Improvements Act of 1980. | 1.50 |
| May 29 | S. 2648 | 96-253 | 94:398 | To authorize appropriations for the Federal Election Commission for fiscal year 1981. | 1.00 |
| May 30 | S. 2253 | 96-254 | 94:399 | To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor improvement project and to require the Secretary of Transportation to begin development of energy efficient rail passenger corridors, to provide for the protection of the employees of the Rock Island Railroad, and for other purposes. | 1.50 |

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
|---|---|---|---|---|---|
| | H.R. 6615 | 96-255 | 94:420 | To amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal years 1981 and 1982, and for other purposes. | 1.00 |
| | H.R. 7471 | 96-256 | 94:421 | To extend the present public debt limit through June 5, 1980. | 1.00 |
| May 31 | H.R. 6081 | 96-257 | 94:422 | Special Central American Assistance Act of 1979. | 1.00 |
| June 3 | H.R. 3807 | 96-258 | 94:425 | To amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change. | 1.00 |
| | S. 662 | 96-259 | 94:429 | To provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund. | 1.00 |
| | H.R. 4088 | 96-260 | 94:435 | To authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes. | 1.00 |
| June 4 | H.J.Res. 554 | 96-261 | 94:436 | Making an appropriation for the Federal Trade Commission for the fiscal year ending September 30, 1980. | 1.00 |
| June 5 | H.R. 4890 | 96-262 | 94:437 | To authorize appropriations for the Commercial Fisheries Research and Development Act of 1964 for fiscal years 1981, 1982, and 1983. | 1.00 |
| June 6 | H.R. 3789 | 96-263 | 94:438 | To amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program. | 1.00 |
| | H.R. 7428 | 96-264 | 94:439 | To extend the present public debt limit through June 30, 1980. | 1.00 |
| June 9 | H.R. 3236 | 96-265 | 94:441 | Social Security Disability Amendments of 1980. | 2.25 |
| | H.J.Res. 445 | 96-266 | 94:482 | To provide for designation of the week of September 21-27, 1980, as "National Cystic Fibrosis Week". | 1.00 |
| | H.R. 6727 | 96-267 | 94:483 | To establish the Bon Secour National Wildlife Refuge. | 1.00 |
| June 13 | S. 1786 | 96-268 | 94:485 | To amend the Act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said Act. | 1.00 |
| | S. 2517 | 96-269 | 94:486 | To rename certain buildings of the Library of Congress. | 1.00 |
| June 14 | S. 1658 | 96-270 | 94:487 | Asbestos School Hazard Detection and Control Act of 1980. | 1.25 |
| June 16 | S. 2666 | 96-271 | 94:499 | To authorize appropriations for the International Natural Rubber Agreement for fiscal year 1981. | 1.00 |
| June 17 | H.R. 3434 | 96-272 | 94:500 | Adoption Assistance and Child Welfare Act of 1980. | 2.00 |
| | H.R. 4453 | 96-273 | 94:536 | To amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin. | 1.00 |
| | H.R. 2102 | 96-274 | 94:537 | Pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota. | 1.00 |
| | H.R. 6842 | 96-275 | 94:539 | To protect the confidentiality of Shippers' Export Declarations, and to standardize export data submission and disclosure requirements. | 1.00 |
| | H.R. 6285 | 96-276 | 94:541 | Egg Research and Consumer Information Act Amendments of 1980. | 1.00 |
| | H.R. 3979 | 96-277 | 94:544 | To repeal and amend certain laws regulating trade between Indians and certain Federal employees. | 1.00 |
| | S.J.Res. 127 | 96-278 | 94:547 | To authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day". | 1.00 |
| June 18 | H.J.Res. 442 | 96-279 | 94:549 | Designating the week beginning June 22, 1980, as "National Athletic Boosters Week". | 1.00 |
| | S.J.Res. 89 | 96-280 | 94:550 | Permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes. | 1.00 |
| June 19 | S.J.Res. 183 | 96-281 | 94:551 | Congratulating the Order of the Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day". | 1.00 |
| June 27 | H.J.Res. 521 | 96-282 | 94:552 | Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System. | 1.00 |
| June 28 | H.R. 2759 | 96-283 | 94:553 | Deep Seabed Hard Mineral Resources Act. | 2.00 |

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
|---|---|---|---|---|---|
| | S. 2460 | 96-284 | 94:587 | Uniformed Services Health Professionals Special Pay Act of 1980. | 1.00 |
| | H.R. 6022 | 96-285 | 94:595 | To establish the Tensas River National Wildlife Refuge. | 1.00 |
| | H.J.Res. 569 | 96-286 | 94:598 | To provide for a temporary increase in the public debt limit. | 1.00 |
| | H.R. 5926 | 96-287 | 94:599 | To establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes. | 1.00 |
| | H.R. 6169 | 96-288 | 94:603 | To establish the Bogue Chitto National Wildlife Refuge. | 1.00 |
| | H.R. 6614 | 96-289 | 94:605 | To authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes. | 1.00 |
| | H.R. 4887 | 96-290 | 94:607 | To authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes. | 1.00 |
| | H.R. 4889 | 96-291 | 94:608 | To extend the authorization period for the Great Dismal Swamp National Wildlife Refuge. | 1.00 |
| | H.R. 5259 | 96-292 | 94:609 | To name a certain Federal building in Santa Fe, New Mexico, the "Joseph M. Montoya Federal Building and U.S. Courthouse". | 1.00 |
| June 30 | H.R. 7685 | 96-293 | 94:610 | To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans. | 1.00 |
| | S. 932 | 96-294 | 94:611 | Energy Security Act. | 4.25 |
| | S. 562 | 96-295 | 94:780 | To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes. | 1.25 |
| July 1 | S. 2245 | 96-296 | 94:793 | Motor Carrier Act of 1980. | 2.00 |
| | S.J.Res. 119 | 96-297 | 94:827 | To authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial. | 1.00 |
| | H.R. 7477 | 96-298 | 94:829 | To amend the Internal Revenue Code of 1954 to provide a three-month extension of taxes which are transferred to the Airport and Airway Trust Fund. | 1.00 |
| July 2 | S.J.Res. 115 | 96-299 | 94:830 | Designating July 1980 as "National Porcelain Art Month". | 1.00 |
| | S.J.Res. 188 | 96-300 | 94:831 | Extending the reporting date of the National Commission on Air Quality. | 1.00 |
| | H.R. 5751 | 96-301 | 94:832 | To more adequately protect archeological resources in southwestern Colorado. | 1.00 |
| | S. 2698 | 96-302 | 94:833 | To provide authorizations for the Small Business Administration, and for other purposes. | 1.50 |
| July 3 | H.R. 5997 | 96-303 | 94:855 | To provide for the display of the Code of Ethics for Government Service. | 1.00 |
| July 8 | H.R. 7542 | 96-304 | 94:857 | Supplemental Appropriations and Rescission Act, 1980. | 3.25 |
| | S. 751 | 96-305 | 94:929 | Navajo and Hopi Indian Relocation Amendments Act of 1980. | 1.00 |
| | H.R. 7482 | 96-306 | 94:937 | To authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the United States Summer Olympic Team of 1980. | 1.00 |
| | S.J.Res. 168 | 96-307 | 94:938 | Designating July 18, 1980, as "National POW-MIA Recognition Day". | 1.00 |
| July 9 | S. 598 | 96-308 | 94:939 | Soft Drink Interbrand Competition Act. | 1.00 |
| | S. 2546 | 96-309 | 94:940 | To authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties, and for other purposes. | 1.00 |
| July 17 | H.R. 7474 | 96-310 | 94:941 | Ocean Thermal Energy Conversion Research, Development, and Demonstration Act. | 1.00 |
| | H.R. 7573 | 96-311 | 94:947 | To provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange. | 1.00 |
| July 23 | S. 2009 | 96-312 | 94:948 | Central Idaho Wilderness Act of 1980. | 1.00 |
| July 25 | S.J.Res. 180 | 96-313 | 94:955 | To provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution. | 1.00 |
| | S.J.Res. 181 | 96-314 | 94:956 | To provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution. | 1.00 |

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
|---|---|---|---|---|---|
| | S. 2382 | 96-315 | 94:957 | To provide for additional authorization for appropriations for the Tinicum National Environmental Center. | 1.00 |
| July 30 | S. 2240 | 96-316 | 94:960 | National Aeronautics and Space Administration Authorization Act, 1981. | 1.00 |
| July 31 | S. 1647 | 96-317 | 94:964 | Commission on Wartime Relocation and Internment of Civilians Act. | 1.00 |
| Aug. 1 | S. 1466 | 96-318 | 94:968 | To provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27-A and 241, 289, and 27-B and 338, and for other purposes. | 1.00 |
| | S. 2508 | 96-319 | 94:972 | To provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236-A, 236-B, and 236-E before the Indian Claims Commission and the United States Court of Claims, and for other purposes. | 1.00 |
| Aug. 3 | S. 2492 | 96-320 | 94:974 | Ocean Thermal Energy Conversion Act of 1980. | 1.75 |
| Aug. 4 | S. 2995 | 96-321 | 94:1001 | To allow the transfer of certain funds to fund the heat crisis program. | 1.00 |
| | H.R. 6666 | 96-322 | 94:1002 | To revise the laws relating to the Coast Guard Reserve. | 1.25 |
| | H.R. 5580 | 96-323 | 94:1016 | North Atlantic Treaty Organization Mutual Support Act of 1979. | 1.00 |
| Aug. 8 | H.R. 1198 | 96-324 | 94:1020 | To clarify the authority to establish lines of demarcation dividing the high seas and inland waters. | 1.00 |
| | H.R. 6613 | 96-325 | 94:1021 | Maritime Labor Agreements Act of 1980. | 1.00 |
| | H.R. 827 | 96-326 | 94:1023 | To establish dispute resolution procedures to settle disputes between supervisors and the United States Postal Service. | 1.00 |
| | S.1916 | 96-327 | 94:1026 | To authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China. | 1.00 |
| | H.R. 5748 | 96-328 | 94:1027 | To amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard. | 1.00 |
| Aug. 11 | H.R. 7786 | 96-329 | 94:1029 | To amend Public Law 90-331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election. | 1.00 |
| Aug. 28 | H.R. 7102 | 96-330 | 94:1030 | Veterans' Administration Health-Care Amendments of 1980. | 1.50 |
| Aug. 28 | S. 1863 | 96-331 | 94:1055 | To authorize the Secretary of Commerce to charter the nuclear ship Savannah to Patriots Point Development Authority, an agency of the State of South Carolina. | 1.00 |
| Aug. 29 | S. 1140 | 96-332 | 94:1057 | To amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1980 and 1981, and for other purposes. | 1.00 |
| | S. 1730 | 96-333 | 94:1060 | To declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe. | 1.00 |
| | H.J. Res. 589 | 96-334 | 94:1061 | Providing additional program authority for the Export-Import Bank. | 1.00 |
| Sept. 4 | H.R. 507 | 96-335 | 94:1062 | To authorize Federal participation in stream rectification, Trinity River Division Central Valley project, California, and for other purposes. | 1.00 |
| | S. 496 | 96-336 | 94:1063 | To increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes. | 1.00 |
| | S.J. Res. 83 | 96-337 | 94:1066 | To authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia. | 1.00 |
| | S. 1998 | 96-338 | 94:1067 | To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation. | 1.00 |
| | S. 2549 | 96-339 | 94:1069 | To authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes. | 1.00 |
| | S. 2055 | 96-340 | 94:1072 | To establish a reservation for the Confederated Tribes of Siletz Indians of Oregon. | 1.00 |
| Sept. 8 | H.R. 8010 | 96-341 | 94:1076 | To amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center". | 1.00 |

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
|---|---|---|---|---|---|
| | H.R. 6974 | 96-342 | 94:1077 | Department of Defense Authorization Act, 1981. | 2.25 |
| | H.R. 5168 | 96-343 | 94:1123 | Military Personnel and Compensation Amendments of 1980. | 1.25 |
| | S. 2680 | 96-344 | 94:1133 | To improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666). | 1.00 |
| | H.R. 5892 | 96-345 | 94:1139 | Wind Energy Systems Act of 1980. | 1.25 |
| Sept. 10 | H.R. 7072 | 96-346 | 94:1148 | To amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes. | 1.00 |
| Sept. 12 | H.R. 1781 | 96-347 | 94:1150 | To amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes. | 1.00 |
| | H.R. 1967 | 96-348 | 94:1152 | To modify the boundary of the White River National Forest in the State of Colorado. | 1.00 |
| | S. 390 | 96-349 | 94:1154 | Antitrust Procedural Improvements Act of 1980. | 1.00 |
| Sept. 15 | H.R. 2538 | 96-350 | 94:1159 | To facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes. | 1.00 |
| | H.R. 4627 | 96-351 | 94:1161 | To authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America. | 1.00 |
| Sept. 17 | H.J.Res. 607 | 96-352 | 94:1162 | Making an urgent supplemental appropriation for the Veterans Administration for the fiscal year ending September 30, 1980. | 1.00 |
| Sept. 19 | H.J.Res. 594 | 96-353 | 94:1163 | To authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day". | 1.00 |
| | S. 299 | 96-354 | 94:1164 | Regulatory Flexibility Act. | 1.00 |
| Sept. 24 | S. 670 | 96-355 | 94:1171 | Rural Development Policy Act of 1980. | 1.00 |
| | S. 1625 | 96-356 | 94:1177 | To amend the Act of December 20, 1944, as amended. | 1.00 |
| | H.R. 5766 | 96-357 | 94:1178 | To authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary concerned to require an individual furnished post-secondary education by an Armed Force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active-duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes. | 1.00 |
| Sept. 25 | S. 261 | 96-358 | 94:1184 | Agricultural Subterminal Facilities Act of 1980. | 1.00 |
| Sept. 26 | H.R. 6940 | 96-359 | 94:1190 | Infant Formula Act of 1980. | 1.00 |
| | H.R. 3210 | 96-360 | 94:1196 | To terminate the authority to make grants to the Las Vegas Valley Water District under the Act of August 27, 1954. | 1.00 |
| | H.R. 6511 | 96-361 | 94:1197 | To designate the building known as the Federal Building in Morgantown, West Virginia, as the "Harley O. Staggers Federal Building". | 1.00 |
| | S. 1650 | 96-362 | 94:1198 | National Aquaculture Act of 1980. | 1.25 |
| | S. 2223 | 96-363 | 94:1207 | To permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons. | 1.00 |
| | H.R. 3904 | 96-364 | 94:1208 | Multiemployer Pension Plan Amendments Act of 1980. | 3.75 |
| | S. 1125 | 96-365 | 94:1312 | Federal Crop Insurance Act of 1980. | 1.25 |
| Sept. 29 | H.R. 3292 | 96-366 | 94:1322 | Fish and Wildlife Conservation Act of 1980. | 1.25 |
| Oct. 1 | H.R. 7590 | 96-367 | 94:1331 | Energy and Water Development Appropriation Act, 1981. | 1.25 |
| | S. 2443 | 96-368 | 94:1347 | West Valley Demonstration Project Act. | 1.00 |
| | H.J.Res. 610 | 96-369 | 94:1351 | Making continuing appropriations for the fiscal year 1981, and for other purposes. | 1.25 |
| Oct. 3 | H.R. 7825 | 96-370 | 94:1360 | To establish the Ice Age National Scenic Trail, and for other purposes. | 1.00 |

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
|---|---|---|---|---|---|
| | H.J.Res. 551 | 96-371 | 94:1361 | Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week", and for other purposes. | 1.00 |
| | S.J.Res. 209 | 96-372 | 94:1363 | Providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities. | 1.00 |
| | H.R. 6395 | 96-373 | 94:1366 | To amend the Consumer Product Safety Act to modify certain postemployment restrictions applicable to officers and employees of the Consumer Product Safety Commission. | 1.00 |
| | H.R. 5192 | 96-374 | 94:1367 | Education Amendments of 1980. | 4.00 |
| | H.R. 5278 | 96-375 | 94:1505 | To authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes. | 1.00 |
| | S. 2489 | 96-376 | 94:1509 | To authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes. | 1.00 |
| | H.R. 7478 | 96-377 | 94:1512 | To facilitate the management of the public debt by permitting an increase in the investment yield on United States savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4 1/4 per centum which may be outstanding. | 1.00 |
| Oct. 6 | H.R. 5164 | 96-378 | 94:1513 | To amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes. | 1.00 |
| | S. 1895 | 96-379 | 94:1520 | To change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as "Clarks Hill Dam and Lake". | 1.00 |
| | H.R. 6242 | 96-380 | 94:1521 | To establish a Towing Safety Advisory Committee in the Department of Transportation. | 1.00 |
| | S. 1123 | 96-381 | 94:1523 | To amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such Act for fiscal year 1980. | 1.00 |
| | H.R. 3748 | 96-382 | 94:1525 | To provide for a uniform national three-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes. | 1.00 |
| | H.R. 8018 | 96-383 | 94:1526 | To rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam". | 1.00 |
| | H.R. 8024 | 96-384 | 94:1527 | To change the name of Aubrey Lake, Texas, to Ray Roberts Lake. | 1.00 |
| Oct. 7 | H.R. 7511 | 96-385 | 94:1528 | Veterans' Disability Compensation and Housing Benefits Amendments of 1980. | 1.25 |
| | H.R. 6308 | 96-386 | 94:1539 | Magnetic Fusion Energy Act of 1980. | 1.00 |
| | S. 1442 | 96-387 | 94:1545 | To authorize the documentation of certain vessels as vessels of the United States, and for other purposes. | 1.00 |
| | H.R. 8081 | 96-388 | 94:1547 | To establish the United States Holocaust Memorial Council. | 1.00 |
| | S. 2271 | 96-389 | 94:1551 | To amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes. | 1.00 |
| | H.R. 4792 | 96-390 | 94:1556 | To name a certain Federal building in Houston, Texas, the Bob Casey Federal Building--U.S. Courthouse. | 1.00 |
| | H.R. 5410 | 96-391 | 94:1557 | To amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election. | 1.00 |
| | H.R. 5732 | 96-392 | 94:1558 | To designate the Federal Building located at 33 West Twohig, San Angelo, Texas, as the "O. C. Fisher Federal Building". | 1.00 |
| | H.R. 6531 | 96-393 | 94:1559 | To name a certain Federal building in Indianapolis, Indiana, the Minton-Capehart Federal Building. | 1.00 |
| | H.R. 7414 | 96-394 | 94:1560 | To designate the building known as the Federal Building and United States Courthouse in Amarillo, Texas, as the "J. Marvin Jones Federal Building". | 1.00 |
| | H.R. 7450 | 96-395 | 94:1561 | To designate the United States Court House and the United States Post Office Federal Building in Waterbury, Connecticut, as the "John S. Monagan Federal Building". | 1.00 |

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
|---|---|---|---|---|---|
| | H.R. 7782 | 96-396 | 94:1562 | To amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule. | 1.00 |
| | H.R. 8202 | 96-397 | 94:1563 | To continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period. | 1.00 |
| | S. 1177 | 96-398 | 94:1564 | Mental Health Systems Act. | 3.00 |
| Oct. 8 | S. 2719 | 96-399 | 94:1614 | Housing and Community Development Act of 1980. | 3.50 |
| Oct. 9 | H.R. 7831 | 96-400 | 94:1681 | Department of Transportation and Related Agencies Appropriation Act, 1981. | 1.50 |
| | S. 2126 | 96-401 | 94:1701 | Relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation. | 1.00 |
| | S. 91 | 96-402 | 94:1705 | Uniformed Services Survivor Benefits Amendments of 1980. | 1.00 |
| | H.R. 7670 | 96-403 | 94:1709 | To amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund. | 1.00 |
| | S. 341 | 96-404 | 94:1711 | To authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes. | 1.00 |
| | S. 1795 | 96-405 | 94:1713 | To authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes. | 1.00 |
| | S. 2398 | 96-406 | 94:1715 | To extend the provisions of the General Exchange Act, as amended, to certain lands in order that they may become parts of the Umatilla and Wallowa National Forest, and for other purposes. | 1.00 |
| | H.R. 3956 | 96-407 | 94:1717 | Granting the consent of the Congress to Hewson A. Ryan to accept the office and title of Honorary Consul of Honduras. | 1.00 |
| | H.R. 7130 | 96-408 | 94:1718 | To designate the building known as United States Court House and Federal Building in Syracuse, New York, as the "James M. Hanley Federal Building". | 1.00 |
| | H.R. 7309 | 96-409 | 94:1719 | To designate the Federal building in Portland, Oregon the "Edith Green Federal Building". | 1.00 |
| | H.R. 7544 | 96-410 | 94:1720 | To designate the United States Federal Building in New Haven, Connecticut, as the "Robert N. Giaimo Federal Building". | 1.00 |
| | H.R. 7588 | 96-411 | 94:1721 | To redesignate the United States Post Office and Courthouse Building in Concord, New Hampshire, as the "James C. Cleveland Federal Building". | 1.00 |
| | H.R. 7770 | 96-412 | 94:1722 | To name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center". | 1.00 |
| | H.R. 8161 | 96-413 | 94:1723 | To designate the United States Federal Building in Pittsburgh, Pennsylvania, as the "William S. Moorhead Federal Building". | 1.00 |
| | H.J.Res. 472 | 96-414 | 94:1724 | Designating October 19, 1981, as a "Day of National Observance of the Two Hundredth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia". | 1.00 |
| | S. 2801 | 96-415 | 94:1725 | To designate the Indian Health Facility in Ada, Oklahoma, the "Carl Albert Indian Health Facility". | 1.00 |
| | H.J.Res. 560 | 96-416 | 94:1726 | To proclaim March 19, 1981, as "National Agriculture Day". | 1.00 |
| Oct. 10 | S. 1654 | 96-417 | 94:1727 | Customs Courts Act of 1980. | 1.50 |
| | H.R. 7301 | 96-418 | 94:1749 | Military Construction Authorization Act, 1981. | 2.00 |
| | S.J.Res. 201 | 96-419 | 94:1784 | To provide for the designation of a week as "National Lupus Week". | 1.00 |
| | H.R. 7919 | 96-420 | 94:1785 | Maine Indian Claims Settlement Act of 1980. | 1.25 |
| | S.J.Res. 82 | 96-421 | 94:1798 | To designate the week commencing with the third Monday in February of 1981 as "National Patriotism Week". | 1.00 |
| | H.R. 7859 | 96-422 | 94:1799 | Refugee Education Assistance Act of 1980. | 1.25 |
| | S. 2730 | 96-423 | 94:1811 | Federal Railroad Safety Authorization Act of 1980. | 1.25 |

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|---|---|---|---|---|---|
| | S. 3180 | 96-424 | 94:1820 | To repeal a provision of the Refugee Education Assistance Act of 1980. | 1.00 |
| | S. 2475 | 96-425 | 94:1821 | Automobile Fuel Efficiency Act of 1980. | 1.25 |
| | S. 3148 | 96-426 | 94:1830 | To name the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, the "Frank Carlson Federal Building". | 1.00 |
| | H.R. 7666 | 96-427 | 94:1831 | Federal Employees' Group Life Insurance Act of 1980. | 1.00 |
| | H.R. 7218 | 96-428 | 94:1839 | To establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes. | 1.00 |
| | S. 3044 | 96-429 | 94:1844 | To designate the United States Federal Building in Hartford, Connecticut, as the "Abraham A. Ribicoff Federal Building". | 1.00 |
| | H.R. 7434 | 96-430 | 94:1845 | To provide for the establishment of the Boston African American National Historic Site in the Commonwealth of Massachusetts, and for other purposes. | 1.00 |
| | H.R. 6065 | 96-431 | 94:1850 | To amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes. | 1.00 |
| | H.R. 6331 | 96-432 | 94:1851 | To amend the Act of July 31, 1946, as amended, relating to the United States Capitol Grounds, and for other purposes. | 1.00 |
| | H.R. 7939 | 96-433 | 94:1855 | To amend the Securitites Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission. | 1.00 |
| | S. 1796 | 96-434 | 94:1859 | To authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes. | 1.00 |
| | H.R. 7411 | 96-435 | 94:1861 | Authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes. | 1.00 |
| Oct. 13 | H.R. 7592 | 96-436 | 94:1863 | Military Construction Appropriation Act, 1981. | 1.00 |
| | H.R. 5546 | 96-437 | 94:1870 | To amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes. | 1.00 |
| | S. 985 | 96-438 | 94:1871 | To amend the Consolidated Farm and Rural Development Act. | 1.00 |
| | H.R. 7779 | 96-439 | 94:1878 | To amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court and to remove the age limitation on appointments to the Tax Court. | 1.00 |
| | S. 1790 | 96-440 | 94:1879 | Privacy Protection Act of 1980. | 1.00 |
| | H.R. 8103 | 96-441 | 94:1884 | To rename the National Collection of Fine Arts and the Museum of History and Technology of the Smithsonian Institution as the National Museum of American Art and the National Museum of American History, respectively. | 1.00 |
| | H.R. 5048 | 96-442 | 94:1885 | Manassas National Battlefield Park Amendments of 1980. | 1.00 |
| | H.J.Res. 568 | 96-443 | 94:1888 | To authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week". | 1.00 |
| | S. 2936 | 96-444 | 94:1889 | To transfer certain employees of the Architect of the Capitol to the Sergeant at Arms and Doorkeeper of the Senate. | 1.00 |
| | H.R. 6440 | 96-445 | 94:1891 | To establish priorities in the payment of claims against the People's Republic of China. | 1.00 |
| | S. 2185 | 96-446 | 94:1893 | To authorize the acceptance and use of bequests and gifts for disaster relief. | 1.00 |
| | S. 2511 | 96-447 | 94:1894 | Civil Rights Commission Authorization Act of 1980. | 1.00 |
| Oct. 14 | S. 1946 | 96-448 | 94:1895 | Staggers Rail Act of 1980. | 3.50 |
| | H.R. 7085 | 96-449 | 94:1967 | Hostage Relief Act of 1980. | 1.00 |
| | S. 2597 | 96-450 | 94:1975 | Intelligence Authorization Act for Fiscal Year 1981. | 1.00 |

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| | H.R. 4310 | 96-451 | 94:1983 | To amend the Federal Boat Safety Act of 1971 to promote recreational boating safety through the development, administration, and financing of a national recreational boating safety improvement program, and for other purposes. | 1.25 |
| | H.R. 7665 | 96-452 | 94:1994 | Fifth Circuit Court of Appeals Reorganization Act of 1980. | 1.00 |
| Oct. 15 | H.R. 5451 | 96-453 | 94:1997 | Maritime Education and Training Act of 1980. | 1.25 |
| | S. 1798 | 96-454 | 94:2011 | Household Goods Transportation Act of 1980. | 1.25 |
| | H.R. 4273 | 96-455 | 94:2024 | To amend section 17 of the Act of July 5, 1946, as amended, entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes". | 1.00 |
| | S. 1482 | 96-456 | 94:2025 | Classified Information Procedures Act. | 1.00 |
| | S. 1640 | 96-457 | 94:2032 | To extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes. | 1.00 |
| | S. 1873 | 96-458 | 94:2035 | Judicial Councils Reform and Judicial Conduct and Disability Act of 1980. | 1.00 |
| | H.R. 6554 | 96-459 | 94:2042 | Maritime Appropriation Authorization Act for Fiscal Year 1981. | 1.00 |
| | H.R. 4417 | 96-460 | 94:2044 | Chesapeake Bay Research Coordination Act of 1980. | 1.00 |
| | S. 2320 | 96-461 | 94:2049 | National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982. | 1.00 |
| | H.R. 6178 | 96-462 | 94:2053 | Federal District Court Organization Act of 1980. | 1.00 |
| | S. 2412 | 96-463 | 94:2055 | Used Oil Recycling Act of 1980. | 1.00 |
| Oct. 17 | S. 2622 | 96-464 | 94:2060 | Coastal Zone Management Improvement Act of 1980. | 1.25 |
| | H.R. 6790 | 96-465 | 94:2071 | Foreign Service Act of 1980. | 3.75 |
| | H.R. 5288 | 96-466 | 94:2171 | Veterans' Rehabilitation and Education Amendments of 1980. | 3.00 |
| | H.R. 3122 | 96-467 | 94:2220 | Relating to the tariff treatment of certain articles. | 1.25 |
| | H.R. 6593 | 96-468 | 94:2229 | Swine Health Protection Act. | 1.00 |
| | S. 2043 | 96-469 | 94:2235 | Animal Cancer Research Act. | 1.00 |
| Oct. 19 | H.R. 6686 | 96-470 | 94:2237 | Congressional Reports Elimination Act of 1980. | 1.25 |
| | H.R. 6883 | 96-471 | 94:2247 | Installment Sales Revision Act of 1980. | 1.25 |
| | S. 1393 | 96-472 | 94:2257 | To amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and the fire prevention and control program, and for other purposes. | 1.00 |
| | H.R. 5295 | 96-473 | 94:2263 | To amend the Social Security Act with respect to the retirement test, to reduce spending under title II of the Social Security Act, and for other purposes. | 1.00 |
| | H.R. 5326 | 96-474 | 94:2267 | To authorize the Secretary of Agriculture to convey certain Government-owned property in the Kisatchie National Forest to the State of Louisiana in exchange for certain property at old Camp Livingston, Louisiana. | 1.00 |
| | H.R. 6816 | 96-475 | 94:2269 | To provide for the exchange of certain Federal coal leases in the State of New Mexico for other Federal coal leases in that State. | 1.00 |
| | S. 3072 | 96-476 | 94:2271 | Rattlesnake National Recreation Area and Wilderness Act of 1980. | 1.00 |
| Oct. 21 | H.R. 7554 | 96-477 | 94:2275 | Small Business Investment Incentive Act of 1980. | 1.50 |
| | H.R. 6665 | 96-478 | 94:2297 | Act to Prevent Pollution from Ships. | 1.00 |
| | H.R. 2743 | 96-479 | 94:2305 | National Materials and Minerals Policy, Research and Development Act of 1980. | 1.00 |
| | S. 1250 | 96-480 | 94:2311 | Stevenson-Wydler Technology Innovation Act of 1980. | 1.25 |
| | H.R. 5612 | 96-481 | 94:2321 | To amend the Small Business Act, to provide for the payment of the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States, and for other purposes. | 1.25 |
| | S. 1156 | 96-482 | 94:2334 | Solid Waste Disposal Act Amendments of 1980. | 1.75 |
| | S. 2725 | 96-483 | 94:2360 | To extend certain authorizations in the Clean Water Act, and for other purposes. | 1.00 |

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| Nov. 24 | H.R. 7212 | 96-484 | 94:2365 | To ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Company, and for other purposes. | 1.00 |
| Nov. 26 | S.J. Res.156 | 96-485 | 94:2368 | To authorize the President to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week". | 1.00 |
| Dec. 1 | S. 2357 | 96-486 | 94:2369 | Federal Question Jurisdictional Amendments Act of 1980. | 1.00 |
| Dec. 2 | H.R. 39 | 96-487 | 94:2371 | Alaska National Interest Lands Conservation Act. | 4.50 |
| | H.R. 8329 | 96-488 | 94:2552 | To allow the obsolete aircraft carrier United States ship Intrepid to be transferred to the Intrepid Museum Foundation, Incorporated, before the expiration of the otherwise applicable sixty-day congressional review. | 1.00 |
| | S. 43 | 96-489 | 94:2553 | To promote safety and health in skiing and other outdoor winter recreational activities. | 1.00 |
| | H.R. 7942 | 96-490 | 94:2556 | To approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes. | 1.00 |
| | S. 1135 | 96-491 | 94:2561 | To provide for certain lands to be held in trust for the Moapa Band of Paiutes and to be considered to be part of the Moapa Indian Reservation. | 1.00 |
| | H.R. 8112 | 96-492 | 94:2565 | To require the Secretary of the Interior to convey a parcel of land located in Colorado and certain mineral interests to the Ute Mountain Ute Tribe and to pay an amount to such tribe for energy development. | 1.00 |
| | S. 2251 | 96-493 | 94:2568 | Gasohol Competition Act of 1980. | 1.00 |
| Dec. 3 | H.R. 3765 | 96-494 | 94:2570 | Agricultural Act of 1980. | 1.25 |
| | H.R. 4084 | 96-495 | 94:2581 | Suisun Marsh Preservation and Restoration Act of 1979. | 1.00 |
| Dec. 4 | S. 1386 | 96-496 | 94:2583 | Arts and Humanities Act of 1980. | 1.25 |
| | S. 1179 | 96-497 | 94:2595 | To incorporate the Gold Star Wives of America. | 1.00 |
| | S. 3193 | 96-498 | 94:2598 | To designate the Jacob K. Javits Federal Building. | 1.00 |
| Dec. 5 | H.R. 7765 | 96-499 | 94:2599 | Omnibus Reconciliation Act of 1980. | 3.75 |
| | H.R. 2510 | 96-500 | 94:2696 | To amend title 5, United States Code, to permit Federal employees to obtain review of certain disability determinations made by the Office of Personnel Management under civil service retirement and disability system. | 1.00 |
| | S. 885 | 96-501 | 94:2697 | Pacific Northwest Electric Power Planning and Conservation Act. | 2.00 |
| | H.R. 8117 | 96-502 | 94:2737 | To amend the Safe Drinking Water Act, and for other purposes. | 1.00 |
| | H.J. Res. 634 | 96-503 | 94:2740 | To authorize the United States Secret Service to continue to furnish protection to the former Vice President or his spouse. | 1.00 |
| | H.R. 2583 | 96-504 | 94:2741 | To amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes. | 1.00 |
| | H.R. 5108 | 96-505 | 94:2743 | Metlakatla Indian Community Enrollment Act of 1980. | 1.00 |
| Dec. 8 | S. 3152 | 96-506 | 94:2745 | To amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 to extend the authorization for such Acts for two additional years. | 1.00 |
| | H.R. 4892 | 96-507 | 94:2747 | To repeal section 506 of the Communications Act of 1934. | 1.00 |
| | S. 2352 | 96-508 | 94:2748 | To increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes. | 1.00 |
| | S. 2441 | 96-509 | 94:2750 | Juvenile Justice Amendments of 1980. | 1.50 |
| Dec. 11 | H.R. 7020 | 96-510 | 94:2767 | Comprehensive Environmental Response, Compensation, and Liability Act of 1980. | 2.25 |
| | H.R. 6410 | 96-511 | 94:2812 | Paperwork Reduction Act of 1980. | 1.25 |
| Dec. 12 | H.R. 6889 | 96-512 | 94:2827 | Methane Transportation Research, Development, and Demonstration Act of 1980. | 1.00 |
| | S. 1918 | 96-513 | 94:2835 | Defense Officer Personnel Management Act. | 1.00 |
| | H.R. 7724 | 96-514 | 94:2957 | Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes. | 1.75 |
| | H.R. 5496 | 96-515 | 94:2987 | National Historic Preservation Act Amendments of 1980. | 1.50 |

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| | S. 568 | 96-516 | 94:3007 | National Science Foundation Authorization and Science and Technology Equal Opportunities Act. | 1.00 |
| | H.R. 6933 | 96-517 | 94:3015 | To amend the patent and trademark laws. | 1.25 |
| | S.J. Res. 213 | 96-518 | 94:3030 | To designate the Clinical Center of the National Institutes of Health located in Montgomery County, Maryland, as the "Warren Grant Magnuson Clinical Center of the National Institutes of Health". | 1.00 |
| | H.R. 6086 | 96-519 | 94:3031 | To provide for the settlement and payment of claims of United States civilian and military personnel against the United States for losses resulting from acts of violence directed against the United States Government or its representatives in a foreign country or from an authorized evacuation of personnel from a foreign country. | 1.00 |
| | H.R. 8228 | 96-520 | 94:3033 | To provide that a certain portion of Lake Erie shall be declared nonnavigable. | 1.00 |
| | H.R. 6211 | 96-521 | 94:3037 | To authorize the Secretary of the Interior to issue certain patents under the Color of Title Act. | 1.00 |
| | H.R. 7805 | 96-522 | 94:3038 | To authorize appropriations for the American Folklife Center for fiscal years 1982, 1983, and 1984. | 1.00 |
| | H.R. 7466 | 96-523 | 94:3039 | To amend section 3102 of title 5, United States Code, and section 7 of the Federal Advisory Committee Act to permit the employment of personal assistants for handicapped Federal employees both at their regular duty station and while on travel status. | 1.00 |
| | H.R. 7815 | 96-524 | 94:3042 | To recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes. | 1.00 |
| | H.R. 8388 | 96-525 | 94:3043 | To amend the Foreign Assistance Act of 1961 to authorize appropriations for international disaster assistance for the victims of the recent earthquakes in southern Italy. | 1.00 |
| Dec. 15 | H.R. 7631 | 96-526 | 94:3044 | Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981. | 1.50 |
| | H.R. 8105 | 96-527 | 94:3068 | Department of Defense Appropriation Act, 1981. | 1.75 |
| | H.R. 7591 | 96-528 | 94:3095 | Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes. | 1.50 |
| | H.J. Res 205 | 96-529 | 94:3119 | Authorizing appropriation of funds for acquisition of a monument to Doctor Ralph J. Bunche and installation of such monument in Ralph J. Bunche Park in New York City. | 1.00 |
| | H.R. 8061 | 96-530 | 94:3121 | District of Columbia Appropriation Act. | 1.00 |
| | H.R. 6243 | 96-531 | 94:3129 | To provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattahoochee River, Georgia, shall hereafter be known and designated as the —"R. Shaefer Heard Park". | 1.00 |
| | S. 2134 | 96-532 | 94:3130 | To provide for the acquisition of certain property in square 758 in the District of Columbia as an addition to the grounds of the United States Supreme Court Building. | 1.00 |
| Dec. 16 | H.R. 6942 | 96-533 | 94:3131 | International Security and Development Cooperation Act of 1980. | 2.00 |
| | S. 1835 | 96-534 | 94:3164 | To extend the Joint Funding Simplification Act of 1974. | 1.00 |

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| | H.R. 5856 | 96-535 | 94:3165 | To amend title 32, United States Code, to allow Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the grade of colonel. | 1.00 |
| | H.J.Res. 644 | 96-536 | 94:3166 | Making further continuing appropriations for the fiscal year 1981, and for other purposes. | 1.00 |
| Dec. 17 | S. 2728 | 96-537 | 94:3173 | Indian Health Care Amendments of 1980. | 1.25 |
| | S. 988 | 96-538 | 94:3183 | Health Programs Extension Act of 1980. | 1.25 |
| | H.R. 7018 | 96-539 | 94:3194 | To extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes. | 1.00 |
| | S. 3074 | 96-540 | 94:3197 | Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981. | 1.00 |
| | H.R. 6975 | 96-541 | 94:3204 | To extend certain temporary tax provisions, and for other purposes. | 1.00 |
| | S. 3235 | 96-542 | 94:3209 | To clarify certain effective date provisions of the Customs Courts Act of 1980. | 1.00 |
| | H.R. 7385 | 96-543 | 94:3211 | To authorize the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes. | 1.00 |
| | H.J.Res. 601 | 96-544 | 94:3213 | Making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981. | 1.00 |
| Dec. 18 | H.R. 1298 | 96-545 | 94:3215 | To designate the United States Post Office and Federal Building in Huntington, West Virginia, as the "Sidney L. Christie Federal Building". | 1.00 |
| | H.R. 8173 | 96-546 | 94:3216 | To provide for distribution in the United States of certain International Communication Agency films relating to President Lyndon Baines Johnson. | 1.00 |
| | S. 1391 | 96-547 | 94:3217 | To amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal years 1981, and for other purposes. | 1.00 |
| | H.R. 8404 | 96-548 | 94:3218 | To designate the Federal Building-United States Courthouse in Sacramento, California, the "John E. Moss Federal Building-United States Courthouse". | 1.00 |
| | S. 1972 | 96-549 | 94:3219 | To authorize the Secretary of the Interior to reimburse certain purchasers of subleases from, and creditors of, the Sangre de Christo Development Company, Incorporated, and for other purposes. | 1.00 |
| Dec. 19 | H.R. 8298 | 96-550 | 94:3221 | To designate certain National Forest System lands in the State of New Mexico for inclusion in the National Wilderness Preservation System, and for other purposes. | 1.25 |
| | H.R. 8235 | 96-551 | 94:3233 | To grant the consent of the Congress to the Tahoe Regional Planning Compact, and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created. | 1.50 |
| | H.R. 3351 | 96-552 | 94:3254 | To amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certian surgery performed on an outpatient basis. | 1.00 |
| | S. 2318 | 96-553 | 94:3255 | To revise the boundary of Crater Lake National Park in the State of Oregon, and for other purposes. | 1.00 |
| | S. 1996 | 96-554 | 94:3257 | Wood Residue Utilization Act of 1980. | 1.00 |
| | H.R. 5182 | 96-555 | 94:3260 | To amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date ten years after the effective date of such Act to the date twenty years after such effective date. | 1.00 |
| | H.J.Res. 570 | 96-556 | 94:3261 | To provide for a temporary increase in the public debt limit. | 1.00 |
| | H.R. 7147 | 96-557 | 94:3262 | To provide that certain land of the United States shall be held by the United States in trust for certain communities of the Mdewakanton Sioux in Minnesota. | 1.00 |
| | S. 2069 | 96-558 | 94:3263 | To authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities. | 1.00 |
| Dec. 22 | H.R. 2170 | 96-559 | 94:3264 | To provide for the reimbursement of legal expenses incurred by the city of Fairfax with respect to a 1971 entry and search by employees of the Federal Government. | 1.00 |

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
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| | H.R. 5487 | 96-560 | 94:3265 | To designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes. | 1.25 |
| | S. 2163 | 96-561 | 94:3275 | To provide for the conservation and enhancement of the salmon and steelhead resources of the United States, assistance to treaty and nontreaty harvesters of those resources, and for other purposes. | 1.75 |
| | S. 1824 | 96-562 | 94:3303 | To designate the "John D. Larkins, Jr., Federal Building". | 1.00 |
| | H.J.Res. 615 | 96-563 | 94:3304 | Providing for appointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution. | 1.00 |
| | S. 2227 | 96-564 | 94:3305 | To grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas. | 1.25 |
| | H.R. 7217 | 96-565 | 94:3321 | To establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes. | 1.00 |
| | H.J.Res. 642 | 96-566 | 94:3328 | Providing for convening of the first regular session of the Ninety-seventh Congress on January 5, 1981, and for other purposes. | 1.00 |
| | H.R. 7865 | 96-567 | 94:3329 | Nuclear Safety Research, Development, and Demonstration Act of 1980. | 1.00 |
| | S. 3027 | 96-568 | 94:3334 | Disaster Relief Act Amendments of 1980. | 1.00 |
| | S. 2726 | 96-569 | 94:3335 | Environmental Research, Development, and Demonstration Authorization Act of 1981. | 1.00 |
| | H.R. 2111 | 96-570 | 94:3339 | To extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes. | 1.00 |
| | S. 1784 | 96-571 | 94:3341 | Alaska Federal-Civilian Energy Efficiency Swap Act of 1980. | 1.00 |
| | S. 1148 | 96-572 | 94:3344 | To reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes. | 1.00 |
| | S. 2189 | 96-573 | 94:3347 | Low-Level Radioactive Waste Policy Act. | 1.00 |
| | H.R. 999 | 96-574 | 94:3350 | To amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes. | 1.00 |
| | H.R. 4941 | 96-575 | 94:3353 | To name a dam and reservoir on the San Gabriel River, Texas, as the "North San Gabriel Dam" and "Lake Georgetown", respectively. | 1.00 |
| | H.R. 8345 | 96-576 | 94:3355 | To name the United States Customs House in Ogdensburg, New York, the "Robert C. McEwen United States Customs House". | 1.00 |
| | H.J.Res. 337 | 96-577 | 94:3357 | Designating February 11, 1981, "National Inventors' Day". | 1.00 |
| Dec. 23 | H.R. 7709 | 96-578 | 94:3358 | To amend the Tariff Schedules of the United States to increase the quantity of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning United States residents. | 1.00 |
| | H.R. 7626 | 96-579 | 94:3359 | Military Pay and Allowances Benefits Act of 1980. | 1.25 |
| | S. 3096 | 96-580 | 94:3370 | To amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wisconsin. | 1.00 |
| | S. 1985 | 96-581 | 94:3371 | To authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, to authorize the Secretary of Interior to convey certain interests in lands in the State of Arizona, to amend the Act of March 14, 1978 (92 Stat. 154), and for other purposes. | 1.00 |
| | H.R. 8195 | 96-582 | 94:3374 | To amend the Railroad Retirement Act of 1974 to extend certain cost-of- living increases. | 1.00 |
| | H.R. 6796 | 96-583 | 94:3375 | To amend and extend title VII of the Comprehensive Employment and Training Act. | 1.00 |
| | H.R. 7682 | 96-584 | 94:3377 | To amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes. | 1.00 |
| | H.R. 7814 | 96-585 | 94:3379 | To designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness", and for other purposes. | 1.00 |
| | H.R. 7306 | 96-586 | 94:3381 | To provide for the orderly disposal of certain Federal lands in Nevada, and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes. | 1.00 |
| | S. 1142 | 96-587 | 94:3387 | Authorizing appropriations to the Secretary of Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes. | 1.00 |

| Approval Date | Bill No. | Public Law No. | U.S. Statutes at Large | Subject Matter | Price |
|---|---|---|---|---|---|
| Dec. 24 | S. 3212 | 96-588 | 94:3388 | To designate the "Thomas J. McIntyre Federal Building". | 1.00 |
| | H.R. 5043 | 96-589 | 94:3389 | Bankruptcy Tax Act of 1980. | 1.75 |
| | S. 3261 | 96-590 | 94:3414 | To amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purpose of such section. | 1.00 |
| | H.R. 6671 | 96-591 | 94:3415 | Inland Navigational Rules Act of 1980. | 1.50 |
| | S. 1465 | 96-592 | 94:3437 | Farm Credit Act Amendments of 1980. | 1.50 |
| | H.R. 4774 | 96-593 | 94:3452 | To amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so. | 1.00 |
| | H.R. 1196 | 96-594 | 94:3453 | To revise and improve the laws relating to the documentation of vessels, and for other purposes. | 1.25 |
| | H.R. 4968 | 96-595 | 94:3464 | To amend the Internal Revenue Code of 1954 with respect to net operating loss carryovers of taxpayers who cease to be real estate investment trusts, to increase interest rates on certain United States retirement bonds, and for other purposes. | 1.00 |
| | H.R. 5391 | 96-596 | 94:3469 | To amend the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, and for other purposes. | 1.00 |
| | H.R. 8444 | 96-597 | 94:3477 | To authorize appropriations for certain insular areas of the United States, and for other purposes. | 1.00 |
| | H.R. 3317 | 96-598 | 94:3485 | To amend the Internal Revenue Code of 1954 with respect to excise tax refunds in the case of certain uses of tread rubber, and for other purposes. | 1.00 |
| | H.R. 3637 | 96-599 | 94:3491 | International Coffee Agreement Act of 1980. | 1.00 |
| | H.R. 7694 | 96-600 | 94:3493 | To authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam. | 1.00 |
| | H.R. 5505 | 96-601 | 94:3495 | To simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes. | 1.00 |
| Dec. 28 | S. 1803 | 96-602 | 94:3500 | To modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes. | 1.00 |
| | H.R. 4155 | 96-603 | 94:3503 | To amend the Internal Revenue Code of 1954 to simplify private foundation return and reporting requirements, and for other purposes. | 1.25 |
| | H.R. 7112 | 96-604 | 94:3516 | State and Local Fiscal Assistance Act Amendments of 1980. | 1.00 |
| | H.R. 7956 | 96-605 | 94:3521 | Miscellaneous Revenue Act of 1980. | 1.25 |
| | H.R. 5737 | 96-606 | 94:3534 | To amend the International Claims Settlement Act of 1949 to allow recovery by United States nationals for losses incurred in Vietnam. | 1.00 |
| | S. 2363 | 96-607 | 94:3539 | To provide, with respect to the national park system: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes. | 1.25 |
| | H.R. 5973 | 96-608 | 94:3550 | To amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes. | 1.00 |
| | H.R. 5047 | 96-609 | 94:3555 | To provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes. | 1.25 |
| | S. 2729 | 96-610 | 94:3564 | National Visitor Center Emergency Repair Act of 1980. | 1.00 |
| | H.R. 8406 | 96-611 | 94:3566 | To amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration. | 1.25 |
| | S. 2261 | 96-612 | 94:3575 | To provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes. | 1.00 |
| | H.R. 7171 | 96-613 | 94:3579 | To make certain miscellaneous changes in the tax laws. | 1.00 |

## 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 41 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.

**INTERNATIONAL COMMUNICATION AGENCY**

80818 12-8-80 / Gifts and decorations from foreign governments, revised regulations

**INTERNATIONAL DEVELOPMENT COOPERATION AGENCY**

Agency for International Development—

80818 12-8-80 / Gifts and decorations from foreign governments, revised regulations

**PENSION BENEFIT GUARANTY CORPORATION**

80822 12-8-80 / Payment of premiums; Multiemployer pension plan

**STATE DEPARTMENT**

80818 12-8-80 / Gifts and decorations from foreign governments, revised regulations

### Deadlines for Comments On Proposed Rules for the Week of January 11 Through January 17, 1981

**AGRICULTURE DEPARTMENT**

Agricultural Marketing Service—

75218 11-14-80 / Official Standards of the U.S. for the grades of sea island cotton and tentative standards for the preparation of long-staple cotton; comments by 1-15-81

Agricultural Stabilization and Conservation Service—

77035 11-21-80 / 1981 National Marketing quotas for burley tobacco; comments by 1-16-81

[Comments closing date corrected at 45 FR 79078, 11-28-80]

75219 11-14-80 / Proposed determinations of marketing quotas for the 1981-82, 1982-83 and 1983-84 marketing years for fire-cured, dark air-cured, virginia sun-cured, cigar-binder, and cigar-filler and binder tobacco, comments by 1-13-81

Food and Nutrition Service—

74725 11-12-80 / Food Stamp Program; criteria for authorizing wholesalers; comments by 1-12-81

**COMMERCE DEPARTMENT**

National Oceanic and Atmospheric Administration—

77038 11-21-80 / Licensing of ocean thermal energy conversion facilities and plantships; comments by 1-16-81

**DEFENSE DEPARTMENT**

Defense Investigative Service—

82960 12-17-80 / Financial privacy; policies and procedures for obtaining information from financial institutions; comments by 1-16-81

**ENVIRONMENTAL PROTECTION AGENCY**

82964 12-17-80 / Air quality implementation plan, New Mexico; variance for Phelps Dodge Corp., Playas, N. Mex.; comments by 1-16-81

81789 12-12-80 / Colorado nonattainment area plans; comments by 1-12-81

76906 11-20-80 / Guideline for Federal procurement of cement and concrete containing fly ash; comments by 1-15-81

76076 11-17-80 / Hazardous waste management system; wastewater treatment tanks, neutralization tanks, containers, transport vehicles, etc.; comments by 1-16-81

80318 12-4-80 / Maryland application for interim authorization, phase 1; hazardous waste management program; comments by 1-15-81

75241 11-14-80 / Ocean dumping, proposed designation of sites; comments by 1-13-81

81792 12-12-80 / Ohio State Implementation Plan for sulfur dioxide; coments by 1-12-81

80317 12-4-80 / Pennsylvania application for interim authorization, phase 1; hazardous waste management program; comments by 1-13-81

81608 12-11-80 / Proposed revision of the State Implementation Plan for Kansas; comments by 1-12-81

[Corrected at 45 FR 84099, 12-22-80]

82675 12-16-80 / Proposed removal of revisions to Massachusetts State Implementation; comments by 1-15-81

81608 12-11-80 / Proposed revision of the State Implementation Plan for Kansas; comments by 1-12-81

78970 1-26-80 / Toxic substances; significant new uses; comments by 1-12-81

82678 12-16-80 / Receipt of request from State of New York to revise its State Implementation Plan; comments by 1-15-81

81793 12-12-80 / West Virginia State Implementation Plan; proposed revision; comments by 1-12-81

FEDERAL COMMUNICATIONS COMMISSION

46121 7-9-80 / American Telephone and Telegraph Co.; longterm cost allocation procedures; comments by 1-11-81

79841 12-2-80 / FM broadcast station in Ainsworth, Nebr.; proposed changes in table of assignments; comments by 1-13-81

78189 11-25-80 / FM broadcast station in Spirit Lake, Iowa; proposed changes in table of assignments; comments by 1-13-81

78190 11-25-80 / FM broadcast station in Wiggins, Miss.; proposed changes in table of assignments; comments by 1-13-80

68178 10-17-80 / Inquiry into the future role of low-power television broadcasting and television translators in the National Telecommunications System; comments by 1-15-81

74523 11-10-80 / MTS and WATS market structure; interstate telecommunications services; Alaska submarket, reply comments extended to 1-14-81

82280 12-15-80 / Overseas Communications Services; Comments extended to 1-16-81

[Originally published at 45 FR 82280, 11-19-80]

73718 11-6-80 / TV broadcast station in Sierra Vista, Ariz., proposed changes in table of assignments; reply comments by 1-12-81

FEDERAL TRADE COMMISSION

85076 12-24-80 / Credit practices; comments extended to 1-16-81

[*See also* 45 FR 56070, 8-22-80]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

69128 10-17-80 / Establishment of a monograph for ingrown toenail relief drug products for over-the-counter human use; comments by 1-14-81

69122 11-17-80 / Establishment of monograph for nailbiting and thumbsucking deterrent drug products for over-the-counter human use; comments by 1-14-81

75229 11-14-80 / General biological products standards; pyrogen test requirements; comments by 1-13-81

75226 11-14-80 / Provisionally listed color additives; Proposal to postpone the closing date for the provisional list of certain color additives; comments by 1-13-81

79093 11-28-80 / Restricted devices; comments period extended to 1-16-81

[*See also* 45 FR 65619, 10-3-80]

81734 12-12-80 / Stabilizers and emulsifiers in lowfat and skim milk; consumer interest regulations; objections by 1-12-81

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development, Office of the Assistant Secretary—

74940 11-13-80 / Community Development Block Grants; community development disaster assistance program; comments by 1-12-81

INTERIOR DEPARTMENT

Fish and Wildlife Service—

82975 12-17-80 / Migratory bird hunting annual regulations, special procedures; comments by 1-16-81

68975 10-17-80 / Proposed endangered status and antical habitat for the Kentucky cave shrimp; comments by 1-15-81

Indian Affairs Bureau—

82667 12-16-80 / Attorney contracts with Indian tribes; Payments of tribal attorney fees with appropriated funds; comments by 1-15-81

[Corrected at 45 FR 84088, 12-22-80]

81781 12-12-80 / Grants under Indian Child Welfare Act; comments by 1-12-81

Mines Bureau—

82669 12-16-80 / Revision of provisions for purchases of helium by Federal agencies; comments by 1-15-81

National Park Service—

82278 12-15-80 / Gulf Islands National Seashore; Off-road vehicles; comments by 1-14-81

INTERNATIONAL TRADE COMMISSION

82957 12-17-80 / Ethics rules, proposed amendments; comments by 1-15-81

INTERSTATE COMMERCE COMMISSION

85133 12-24-80 / Improvement of trailer on flatcar and container on flatcar service regulations; comments by 1-12-81

LABOR DEPARTMENT

Employment and Training Administration—

81768 12-12-80 / Grant awards; migrant and other seasonally employed farmworkers program under Comprehensive Employment and Training Act; comments by 1-12-81

Office of the Secretary—

81785 12-12-80 / Labor standards for Federal service contracts; comments by 1-12-81

NUCLEAR REGULATORY COMMISSION

75536 11-14-80 / Fracture toughness requirements for nuclear power reactors; comments by 1-13-81

[Corrected at 45 FR 77450, 11-24-80]

79820 12-2-80 / Intent to prepare environmental impact statement for reactor siting criteria; comments by 1-16-81

79492 12-1-80 / Searches of individuals at Power Reactor facilities; comments by 1-15-81

POSTAL SERVICE

81787 12-12-80 / Enclosures with special fourth-class matter; amendments to Domestic Mail Manual; comments by 1-11-81

RAILROAD RETIREMENT BOARD

78704 11-26-80 / Annuities under the Railroad Retirement Act; comments by 1-12- 81

SECURITIES AND EXCHANGE COMMISSION

70890 10-27-80 / Equity securities, purchases by issuer and others; comments by 1-15-81

83259 12-18-80 / Exemption from registration of interests and participations in certain H.R. 10 plans; comments by 1-14-81

69911 10-22-80 / Net capital requirement for brokers and dealers; comments by 1-15-81

69915 10-22-80 / Net capital requirements for brokers and dealers; comments by 1-15-81

69909 10-22-80 / Proposed comprehensive revision to system for registration of securities offerings; comments by 1-15-81

STATE DEPARTMENT

75687 11-17-80 / International agreements, coordination and reporting; comments by 1-16-81

Consular Affairs Bureau—

81778 12-12-80 / Change in fees for consular services; comments by 1-12-81

Office of the Legal Adviser—

75687 11-17-80 / Coordinating and reporting of international agreements; comments by 1-16-81

[Corrected at 45 FR 81666, December 11, 1980]

TRANSPORTATION DEPARTMENT

Coast Guard—

77439 11-24-80 / Casualty reporting requirements for vessels; comments by 1-15-81

81607 12-11-80 / Drawbridge operation regulations; Skull Creek, S.C.; comments by 1-12-81

Federal Aviation Administration—

75138 11-13-80 / Air carrier; carry-on baggage; accessible storage of flexible travel canes carried by blind passengers; comments by 1-12-81

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

74942 11-13-80 / Multivantage dates under the labeling and advertising regulations for wine under the Federal Alcohol Administration Act; comments by 1-12-81

Internal Revenue Service—

75695 11-17-80 / Foreign oil and gas taxes; limitation on foreign tax credit; comments by 1-16-81

75695 11-17-80 / Foreign taxes, credibility; comments by 1-16-81

75709 11-17-80 / Limited liability companies, classification, comments by 1-16-81

75692 11-17-80 / Oil and gas not considered taxes; payments to foreign countries; comments by 1-16-81

75231 11-14-80 / Windfall profit tax; Clarification of rules relating to base prices of Tier 2 and Tier 3 oil; comments by 1-13-81

WATER RESOURCES COUNCIL

76701 11-20-80 / Protection and management of historic and cultural environment; comments by 1-12-81

## Deadlines for Comments On Proposed Rules for the Week of January 18 through January 24, 1981

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

80535 12-5-80 / Wheat and wheat foods research and nutrition education; comments by 1-19-81

Animal and Plant Health Inspection Service—

76689 11-20-80 / Importation of animals; procedures for withdrawal or denial of approval of commercial bird quarantine station; comments by 1-19-81

Commodity Credit Corporation—

85041 12-24-80 / Cooperative Marketing Associations; Eligibility requirements for price support; comments by 1-23-81

Farmers Home Administration—

76089 11-18-80 / Clarification of economic emergency loans (final rule); comments by 1-19-81

77036 11-21-80 / Community facility loans and development grants for community domestic water and waste disposal systems; comments by 1-21-81

76440 11-19-80 / Supervised bank accounts; loan and grant disbursement; comments by 1-19-81

Food and Nutrition Service—

77258 11-21-80 / Federal sanctions and State agency liabilities; comments by 1-21-81

Food Safety and Quality Service—

77037 11-21-80 / Grading of shell eggs, rabbits, and poultry, and inspection of eggs and egg products; comments by 1-21-81

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM—

77060 11-21-80 / Workshop responsibilities and specification changes; comments by 1-20-81

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

76661 11-20-80 / Deep seabed mining; pre-enactment explorers; comments by 1-19-81

80847 12-8-80 / Tanner crab off Alaska; Amendment to fishery management plan and proposed regulation; comments by 1-18-81

CONSUMER PRODUCT SAFETY COMMISSION

76447 11-19-80 / Voluntary standards activities; modification of policy; comments by 1-19-81

EDUCATION DEPARTMENT

84950 12-23-80 / College Library Resources Program (Title 11-A HEA); comments by 1-22-81

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

84823 12-23-80 / Availability of revised supplementary information and extension of the time period for public comment; comments by 1-23-81

80273 12-4-80 / Maximum lawful price for natural gas from stripper wells; comments by 1-23-81

ENVIRONMENTAL PROTECTION AGENCY

77464 11-24-80 / Air quality, Arizona, California, Hawaii, and Nevada; ambient surveillance provisions; comments by 1-23-81

85101 12-24-80 / Air quality attainment designations, Maryland redesignation for carbon monoxide for Cumberland and Hagerstown; comments by 1-23-81

84098 12-22-80 / Approval and promulgation of implementation plan for Illinois; comments by 1-21-81

77054 11-21-80 / Approval and promulgation of implementation plans; proposed revision to the New York State implementation plan; comments by 1-21-81

77052 11-21-80 / Approval and promulgation of implementation plans; State of Iowa; State implementation plan for lead; comments by 1-21-81

84099 12-22-80 / Approval and promulgation of State implementation plans; State of Missouri; comments by 1-21-81

83546 12-19-80 / Colorado State Implementation Plan; alternative emission reduction for Coors Container Facility; comments by 1-19-81

85101 12-24-80 / Diphenamid, proposed tolerance of herbicide on raspberries; comments by 1-23-81

85102 12-24-80 / Fluchloralin; proposed tolerances of herbicide on peanuts, peanut forage, and peanut hay; comments by 1-23-81

77435 11-24-80 / Hazardous waste listings; wastes from wood preserving industry; re-opening of comment period; comments by 1-23-81

[*See also* 45 FR 33123 and 33136, 5-19-80]

76618, 76620, 76624, 76626 11-19-80 / Hazardous waste management system; interim rules; comments by 1-19-81 (4 documents)

80561 12-5-80 / Hazardous Waste management system; used oil burned as fuel report; comments by 1-19-81

80316 12-4-80 / Intent to promulgate a maintenance of pay provision as part of the Idaho State Implementation Plan; comments by 1-19-81

85105 12-24-80 / 2,4-*D* isopropyl ester; proposed tolerance on citrus fruits; comments by 1-23-81

85103 12-24-80 / Methidathion; proposed tolerances of insecticide on mangos; comments by 1-23-81

76346 11-18-80 / National emission standards for the hazardous air pollutant vinyl chloride; comments by 1-19-81

77353 11-21-80 / Physical, chemical, persistence, and ecological effects testing; proposed good laboratory practice standards; comments by 1-21-81

77332 11-21-80 / Proposed environmental test standards; comments by 1-21-81

84827 12-23-80 / Proposed policy and procedures for identifying, assessing, and regulating airborne substances posing a risk of cancer; comments by 1-22-81

76404 11-18-80 / Proposed standards to limit atmospheric emissions of particulate matter from new, modified, and reconstructed asphalt blowing stills, asphalt saturators, asphalt storage tanks, and mineral handling and storage operations in the asphalt processing and roofing manufacturing industry; comments by 1-19-81

76209 11-18-80 / Redesignation of Linn County, Iowa (Cedar Rapids), from nonattainment to attainment regarding ozone ambient air quality standards; comments by 1-19-81

76427 11-18-80 / Standards of performance for new stationary sources; priority list; comments by 1-19-81

81074 12-9-80 / Steam electric power generating point source category effluent limitation guidelines; pretreatment standards and new source performance standards; comments by 1-19-81

85104 12-24-80 / Terbacil; proposed tolerance of herbicide on asparagus; comments by 1-23-81

**FEDERAL COMMUNICATIONS COMMISSION**

73719 11-6-80 / FM broadcast station in Andrews and Pawley's Island, S.C., proposed changes in table of assignments; reply comments by 1-19-81

78735 11-26-80 / FM broadcast station in Los Lunas, N. Mex.; changes in table of assignments; reply comments by 1-19-81

73720 11-6-80 / FM broadcast station in North Las Vegas, Nevada, proposed changes in table of assignments; reply comments by 1-19-81

73980 11-7-80 / FM broadcast station in St. Johnsbury, Vt.; changes in table of assignments; reply comments by 1-19-81

**FEDERAL MARITIME COMMISSION**

84832 12-23-80 / Exemption of collective bargaining agreements; proposed revocation; comments by 1-22-81

**FEDERAL RESERVE SYSTEM**

80648 12-5-80 / Truth in lending; Regulation Z; proposed complete revision; comments by 1-19-81

**HEALTH AND HUMAN SERVICES DEPARTMENT**

Public Health Service—

76212 11-18-80 / Hospitals and medical facilities construction and modernization and health professional personnel teaching facilities; loan guarantees; use of notes as collateral for tax-exempt financing; comments by 1-19-81

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Federal Housing Commissioner—Office of Assistant Secretary—

76376 11-18-80 / Changes in mortgage amounts under HUD's single family mortgage insurance programs; (interim rule); comments by 1-19-81

**INTERIOR DEPARTMENT**

Fish and Wildlife Service—

70198 10-22-80 / Proposed determination of critical habitat for the Hawksbill Sea Turtle in Puerto Rico; comments by 1-21-81

70192 10-22-80 / Proposed listing with endangered status and critical habitat for the Monito Gecko; comments by 1-21-81

Land Management Bureau—

84390 12-22-80 / Oil and gas leasing, and leasing of minerals other than oil and gas; special acts; comments by 1-21-81

National Park Service—

84997 12-24-80 / Demonstrations and special events; 1981 inauguration; comments by 1-23-81

84390 12-22-80 / Oil and gas leasing, and leasing of minerals other than oil and gas; Special Acts; comments by 1-21-81

**INTERSTATE COMMERCE COMMISSION**

80370 12-4-80 / Coal rate guidelines nationwide; comments by 1-19-81

80150 12-3-80 / Railroad revenue adequacy standards; comments by 1-19-81

**JUSTICE DEPARTMENT**

Prisons Bureau—

75125 11-13-80 / Control, custody, care, treatment, and instruction of inmates; incoming publications; interim rule; comments by 1-19-81

**LABOR DEPARTMENT**

83998 12-19-80 / Procurement; grants and contracts; cost principles and procedures; comments by 1-19-81

Personnel Management Office—

76087 11-18-80 / Civil service retirement program and Federal employees health benefits program; definition of child eligible for survivor annuity benefits and health benefits coverage; interim rule; comments by 1-19-81

76183 11-18-80 / Regulations to govern promotion of Administrative Law Judges (ALJs); comments by 1-19-81

**POSTAL SERVICE**

84060 12-22-80 / Annual presort First-class Mailing fee; comments by 1-23-81

84826 12-23-80 / Centralized delivery mail receptacles; comments by 1-21-81

**SECURITIES AND EXCHANGE COMMISSION**

78158 11-25-80 / Revisions of investment company current report forms; comments by 1-23-81

**TRANSPORTATION DEPARTMENT**

Federal Aviation Administration—

76868 11-20-80 / Export airworthiness approvals; comments by 1-19-81

76691 11-20-80 / Summary of petitions received and dispositions of petitions denied; comments by 1-19-81

Federal Highway Administration—

77455 11-24-80 / Buy-America requirements; use of domestic steel construction materials; comments by 1-23-81 [Corrected at 45 FR 80836, 12-8-80]

63535 9-25-80 / Elimination of the first aid kit in buses operating in interstate or foreign commerce; comments by 1-22-81

70288 10-23-80 / Inspection, repair, and maintenance—inspection requirements for leased vehicles; comments by 1-21-81

63535 9-25-80 / Parts and accessories necessary for safe operation; comments by 1-22-81 [Corrected at 45 FR 65261, 9-25-80]

76705 11-20-80 / Use and disposition of property acquired by States for modified or terminated highway projects; comments by 1-19-81

National Highway Traffic Safety Administration—

84108 12-22-80 / Passenger automobile average fuel economy standards; proposed decision to grant exemption; comments by 1-21-81

**TREASURY DEPARTMENT**

Alcohol, Tobacco and Firearms Bureau—

76191 11-18-80 / Amendments to explosive materials regulations; comments by 1-19-81

Customs Service—

76449 11-19-80 / Examination of merchandise; amendments to regulations; comments by 1-19-81

Internal Revenue Service—

76450 11-19-80 / Indirect foreign tax credit for domestic corporations required to include amounts in gross income with respect to certain third-tier corporations under section 951; comments by 1-19-81

**VETERANS ADMINISTRATION**

77050 11-21-80 / Privacy Act exemptions; comments by 1-21-81

## Next Week's Meetings

**AGRICULTURE DEPARTMENT**

80852 12-8-80 / Written contracts for the motor transportation of exempt agricultural commodities, Chicago, Ill. and McAllen, Tex. (open), 1-12-81

80852 12-8-80 / Written contracts for the motor transportation of exempt agricultural commodities, Fresno, Calif. and Atlanta, Ga. (open), 1-16-81

80852 12-8-80 / Written contracts for the motor transportation of exempt agricultural commodities, Portland, Oreg. and Orlando, Fla. (open), 1-14-81

Food and Nutrition Service—

84810 12-23-80 / Food Stamp Program; monthly reporting/retrospective accounting, Washington, D.C. (open), 1-13-81

Forest Service—

80156 12-3-80 / Continental Divide National Scenic Trail Advisory Council, Albuquerque, N. Mex. (open), 1-14 through 1-17-81

**ARTS AND HUMANITIES, NATIONAL FOUNDATION**

85531 12-29-80 / Humanities Panel, Washington, D.C. (closed), 1-7 through 1-16-81

81133 12-9-80 / Humanities Panel, Washington, D.C. (closed), 1-12-81

[Corrected at 45 FR 83354, 12-18-80]

79204 11-28-80 / Humanities Panel, Washington, D.C. (closed), 1-12 and 1-14-81

81904 12-12-80 / Humanities Panel, Washington, D.C. (closed), 1-13 through 1-16-81

85531 12-29-80 / Visual Arts Panel (Conceptual/Performance/New Genre), Washington, D.C. (closed), 1-15 and 1-16-81

85532 12-29-80 / Visual Arts Panel (Video), Washington, D.C. (closed), 1-9 through 1-11-81

**CONSUMER PRODUCT SAFETY COMMISSION**

84117 12-22-80 / Polyurethane foam petition, Washington, D.C. (open), 1-15-81

**COMMERCE DEPARTMENT**

Maritime Administration—

83647 12-19-80 / U.S. Merchant Marine Academy Advisory Board, Kings Point, N.Y. (open), 1-13-81

[Originally published at 45 FR 79525, 12-1-80]

National Bureau of Standards—

85136 12-24-80 / Visiting Committee, Gaithersburg, Md. (open), 1-15-81

National Oceanic and Atmospheric Administration—

81249 12-10-80 / Mid-Atlantic Fishery Management Council, Ocean City, Md. (open), 1-14-81

National Telecommunications and Information Administration—

85810 12-30-80 / Grant Appeals Board of the Public Telecommunications Facilities Program, Washington D.C. (open), rescheduled for 1-15-81

[*See also* FR 72243, 10-31-80]

**DEFENSE DEPARTMENT**

Air Force Department—

85499 12-29-80 / USAF Scientific Advisory Board, Pease AFB, N.H. (open), 1-16-81

85499 12-29-80 / USAF Scientific Advisory Board, Washington, D.C. (closed), 1-13 and 1-14-81

Army Department—

85499 12-29-80 / Command and General Staff College Advisory Committee, Ft. Leavenworth, Kans. (open), 1-14 through 1-16-81

Navy Department—

82696 12-16-80 / Secretary of the Navy's Advisory Board on Education and Training, Winter Park, Fla. (open), 1-14-81

Office of the Secretary—

81091 12-9-80 / Defense Intelligence Agency Advisory Committee, Rosslyn, Va. (closed), 1-14 and 1-15-81

85500 12-29-80 / ECM Advisory Committee of the Science Board Task Force, Arlington, Va. (closed), 1-15 and 1-16-81

78194 11-25-80 / Wage Committee, Wash., D.C. (partially open), 1-13-81

**EDUCATION DEPARTMENT**

85500 12-29-80 / Bilingual Education National Advisory Council, Washington, D.C. (open) 1-10 through 1-12-81

86525 12-31-80 / Fund for the Improvement of Postsecondary Education, Board of Advisors, Berkeley, Calif. (open), 1-14 and 1-15-81

81645 12-11-80 / Indian Education National Advisory Council, Washington, D.C. (open), 1-11-81

85143 12-24-80 / Vocational Education National Advisory Council, Legislative Committee, Chicago, Ill. (open), 1-13-81

**ENERGY DEPARTMENT**

Economic Regulatory Administration—

80867 12-8-80 / National Petroleum Council, Emergency Preparedness Committee, Coordinating Subcommittee, New York, N.Y. (open), 1-15 and 1-16-81

Federal Energy Regulatory Commission—

81062 12-9-80 / Discussion of proposed revisions to Form No. 15, "Annual Report to Gas Supply for Certain National Gas Pipelines, Washington, D.C." (open), 1-16-81

**FEDERAL COMMUNICATIONS COMMISSION**

83328 12-18-80 / Radio Technical Commission for Marine Services, Washington, D.C. (open), 1-14 and 1-15-81

**FEDERAL PREVAILING RATE ADVISORY COMMITTEE**

83669 12-19-80 / Meeting, Washington, D.C. (open), 1-15-81

**FINE ARTS COMMISSION**

83309 12-18-80 / Appearance of Washington, D.C., Washington, D.C. (open), 1-13-81

**GENERAL SERVICES ADMINISTRATION**

National Archives and Records Service—

86554 12-31-80 / National Archives Advisory Council, Washington, D.C. (open), 1-15 and 1-16-81

**HEALTH AND HUMAN SERVICES DEPARTMENT**

Alcohol, Drug Abuse and Mental Health Administration—

85158 12-24-80 / Community Alcoholism Services Review Committee, Bethesda, Md. (open), 1-9 and 1-10-81

85158 12-24-80 / Community Alcoholism Services Review Committee, Bethesda, Md. (open), 1-11-81

Food and Drug Administration—

76251 11-18-80 / Allergenic Products Workship on Standardization, Bethesda, Md. (open, by reservations), 1-13 and 1-14-81

81887 12-12-80 / Clinical Chemistry and Hemotology Devices Panel, Clinical Chemistry Device Section, Silver Spring, Md. (partially open), 1-15 and 1-16-81

84870 12-23-80 / Consumer participation, East Orange, N.J. (open), 1-13-81

81887 12-12-80 / Endocrinologic and Metabolic Drugs Advisory Committee, Rockville, Md. (open), 1-12 and 1-13-81

81887 12-12-80 / Gastrointestinal Drugs Advisory Committee, Rockville, Md. (partially open), 1-12 and 1-13-81

Health Care Financing Administration—

81262 12-10-80 / National Professional Standards Review Council, Washington, D.C. (open), 1-12 and 1-13-81

Health Resources Administration—

81262 12-10-80 / Health Professions Education National Advisory Council, Bethesda, Md. (partially open), 1-12 through 1-14-81

Human Development Services Office—

85124 12-24-80 / Foster care maintenance and adoption assistance; child welfare services; Boston, Mass. and Atlanta, Ga., 1-9-81 (both sessions open)

85124 12-24-80 / Foster care maintenance and adoption assistance; child welfare services; San Francisco Calif., 1-12-81; Chicago, Ill., 1-13-81; Dallas, Tex., 1-14-81; and Kansas City, Mo. 1-16-81 (all sessions open)

84153 12-22-80 / White House Conference on Aging, Technical Committee on Age—Integrated Society: Implications for the Economy, Washington, D.C. (open), 1-13-81

84153 12-22-80 / White House Conference on Aging, Technical Committee on Age—Intergrated Society: Implications for Spiritual Well-Being, Washington, D.C. (open), 1-13-81

79167 11-28-80 / Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee, Bethesda, Md. (open), 1-13-81

82359 12-15-80 / Arthritis, Metabolism, and Digestive Diseases National Advisory Council, Bethesda, Md. (open), 1-14 through 1-16-81

79168 11-28-80 / Cardiology Advisory Committee, Bethesda, Md. (open), 1-12 and 1-13-81

79168 11-28-80 / High Blood Pressure Working Group, Bethesda, Md. (open), 1-12-81

83676 12-19-80 / National Toxicology Program, Board of Scientific Counselors, Research Triangle Park, N.C. (partially open), 1-15 and 1-16-81

Office of the Secretary—

83172 12-17-80 / Adoption Assistance and Child Welfare Act of 1980, implementation; demonstration project assisting those wishing to comment on proposed regulations: San Francisco, Calif., 1-12-81, Chicago, Ill., 1-13-81, Dallas, Tex. 1-14-81, Kansas City, Mo., 1-16-81 (all sessions open)

**INTERIOR DEPARTMENT**

Geological Survey—

84158 12-22-80 / Earthquake Studies Advisory Panel, Menlo, Park, Calif. (open), 1-9 and 1-10-81

Land Management Bureau—

80368 12-4-80 / Anchorage District Advisory Council, Anchorage, Alaska (open), 1-12-81

81671 12-11-80 / Cedar City District Multiple Use Advisory Council, Cedar City, Utah (open), 1-15-81

83332 12-18-80 / Minnesota Land Use Planning, Duluth, Minn. (open), 1-13-81

81890 12-12-80 / National Public Lands Advisory Council, Las Vegas, Nev. (open), 1-12 and 1-13-81

81891 12-12-80 / Outer Continental Shelf Advisory Board, Mid-Atlantic Technical Working Group, Philadelphia, Pa. (open), 1-13 and 1-14-81

80189 12-3-80 / Safford District Advisory Council, Safford, Ariz. (open), 1-15-81

81673 12-11-80 / Salt Lake District Office, Utah; Preparation of Box Elder County Resource Management Plan, Snowville, Utah (open), 1-13; Park Valley, Utah (open), 1-14; and Grouse Creek, Utah (open), 1-15-81

79173 11-28-80 / Winnemucca District Multiple Use Advisory Council, Winnemucca, Nev. (open), 1-16-81

85163 12-24-80 / WyCoal Gas environmental impact statement for coal gasification plant; Gillett Wyo., 1-13-81, Douglas, Wyo., 1-14-81; Cheyenne, Wyo., 1-15-81

National Park Service—

84879 12-23-80 / Cape Cod National Seashore Advisory Commission, South Wellfleet, Mass. (open), 1-16-81

84159 12-22-80 / San Antonio Missions Advisory Commission, San Antonio, Tex., (open), 1-13-81

**INTERSTATE COMMERCE COMMISSION**

80852 12-8-80 / Written contracts for the motor transportation of exempt agricultural commodities, Chicago, Ill. and McAllen, Tex., (open), 1-12-81

80852 12-8-80 / Written contracts for the motor transportation of exempt agricultural commodities, Fresno, Calif. and Atlanta, Ga. (open), 1-16-81

80852 12-8-80 / Written contracts for the motor transprotation of exempt agricultural commodities, Portland, Oreg. and Orlando, Fla. (open), 1-14-81

**LABOR DEPARTMENT**

Labor Statistics Bureau—

84900 12-23-80 / Business Research Advisory Council, Economic Growth Committee, Washington, D.C. (open), 1-15-81

84900 12-23-80 / Labor Research Advisory Council, Occupational Safety and Health Statistics Committee, Washington, D.C. (open), 1-13-81

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

80933 12-8-80 / Aerospace Safety Advisory Panel, Washington, D.C. (open), 1-15-81

86582 12-31-80 / NASA Advisory Council, Life Sciences Advisory Committee, Washington, D.C. (open), 1-16-81

**NATIONAL SCIENCE FOUNDATION**

83069 12-17-80 / Environmental Biology Advisory Committee, Systematic Biology Subcommittee, Washington, D.C. (partially open), 1-15 and 1-16-81

**STATE DEPARTMENT**

81706 12-11-80 / U.S. Organization for the International Radio Consultative Committee (CCIR), Study Group 5, Boulder, Colorado (open), 1-15-81

81706 12-11-80 / U.S. Organization for the International Radio Consultative Committee (CCIR), Study Group 6, Boulder, Colorado (open), 1-16-81

85539 12-29-80 / U.S. Organization for the International Radio Consultative Committee, Study Group 9, Washington, D.C. (open), 1-15-81

85539 12-29-80 / International Investment, Technology, and Development Advisory Committee (UNCNRSE), Washington, D.C. (open), 1-14-81

85539 12-29-80 / Coordinating Committee, Ocean Dumping Subcommittee, Washington, D.C. (open), 1-14-81

**SMALL BUSINESS ADMINISTRATION**

85242 12-24-80 / Region III Advisory Council, Washington, D.C., (open), 1-14-81

85242 12-24-80 / Region IX Advisory Council, Los Angeles, Calif. (open), 1-14-81

**TRANSPORTATION DEPARTMENT**

Coast Guard—

82409 12-15-80 / Deepwater port off Freeport, Texas, Environmental Impact Statement, Clute, Tex. (open), 1-16-81

83375 12-18-80 / Duluth Harbor South Breakwater Light, Duluth, Minn. (open), 1-14-81

Federal Aviation Administration—

82409 12-15-80 / Air Traffic Procedures Advisory Committee, East Point, Ga. (open), 1-12 through 1-16-81

75040 11-13-80 / Alternative strategies for the implementation of Microwave Landing Systems, Washington, D.C. (open), 1-13-81

80947 12-8-80 / Second FAA/Commuter Airline Symposium, Arlington, Va. (open), 1-15 and 1-16-81

**TREASURY DEPARTMENT**

Internal Revenue Service—

81140 12-9-80 / Art Print Advisory Panel, Washington, D.C. (closed), 1-14-81

**VETERANS ADMINISTRATION**

85568 12-29-80 / Special Medical Advisory Group, Washington, D.C. (open), 1-14 and 1-15-81

81141 12-9-80 / Station Committee on Educational Allowances, Nashville, Tenn. (open), 1-16-81

## Next Week's Public Hearings

**DEFENSE DEPARTMENT**

Navy Department—

68704 10-16-80 / Navy Discharge Review Board, San Diego and San Francisco, Calif., 11-11 through 11-17-81

[*See also* 45 FR 60467, 9-12-80]

**EDUCATION DEPARTMENT**

80150 12-3-80 / Overseas Dependents' Schools, local advisory committees; Madrid, Spain, 1-16-81

[*See also* 45 FR 73963, 11-7-80]

**ENERGY DEPARTMENT**

Conservation and Solar Energy Office—

85610 12-29-80 / Grants programs for schools and hospitals and for buildings owned by units of local government and public care institutions, Chicago, Ill., 1-15-81

85610 12-29-80 / Grant programs for schools and hospitals and for buildings owned by units of local government and public care institutions, Washington, D.C, 1-16-81

Economic Regulatory Administration—

81012 12-8-80 / Standby procedures for emergency purchases and emergency allocation of natural gas during a declared emergency Washington, D.C., 1-13-81

**ENVIROMENTAL PROTECTION AGENCY**

77514 11-24-80 / Ground water protection strategy; Atlanta, Ga and Denver, Colo., 1-12 and 1-13-80; Dallas, Tex, and Philadelphia, Pa., 1-15 and 1-16-81

**HEALTH AND HUMAN SERVICES DEPARTMENT**

Food and Drug Administration—

81887 12-12-80 / Clinical Chemistry and Hematology Devices Panel, Clinical Chemistry Device Section, Silver Spring, Md., 1-15-81

74158 11-7-80 / Consideration of restrictions on sale, use and distribution of alpha-fetaprotein test kit, Rockville, Md., 1-15-81

81887 12-12-80 / Gastrointestinal Drugs Advisory Committee, Rockville, Md., 1-12-81

**HEALTH AND HUMAN SERVICES DEPARTMENT**

Food and Drug Administration—

81887 12-12-80 / Endocrinologic and Metabolic Drugs Advisory Committee, Rockville, Md., 1-12-81

**LABOR DEPARTMENT**

Wage and Hour Division

80555 12-5-80 / Employment of homeworkers in certain industries, Brulington, Vt., 1-13-81

**LIBRARY OF CONGRESS**

Copyright Office—

82768 12-16-80 / Manufacturing clause study, Washington, D.C., 1-13-81

**TRANSPORTATION DEPARTMENT**

Coast Guard—

79258 11-28-80 / Licensing of vessel pilots, Cleveland, Ohio, 1-14-81

**TREASURY DEPARTMENT**

Alcohol, Tobacco and Firearms Bureau—

82472 12-15-80 / Establishment of proposed viticultural areas, North Coast, Calif., 1-12-81; Sonoma Valley, Calif., 1-13-81; Los Carneros, Calif., 1-14-81; Guenoc Valley, Calif., 1-15-81

## List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**

**[Last Listing January 5, 1981]**

## Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

**RULES GOING INTO EFFECT**

86372 12-30-80 / ED—Pre-college Teacher Development in Science Program provisions; effectiveness stayed pending congressional approval

86378 12-30-80 / ED—Rehabilitation training program provisions; effective date stayed pending congressional approval

86812 12-31-80 / HHS/HDSO—Adoption assistance and child welfare services; foster care; State eligibility requirements for additional payments; effective 12-31-80

**DEADLINES FOR COMMENTS ON PROPOSED RULES**

86340 12-30-80 / ED—Amendments to programs of financial assistance for construction, reconstruction and renovation of higher education facilities; comments by 3-2-81

**COMMENTS ON PROPOSED RULES**

86932 12-31-80 / ED—Cooperative Education Program; comments by 2-17-81

86894 12-31-80 / ED—Education opportunity centers program; comments by 3-2-81

86336 12-30-80 / Experimental program for opportunities in advanced study and research in education; comments by 1-29-81

86333 12-30-80 / ED—High school equivalency and college assistance migrant program[s] provisions; comments by 3-2-81

86886 12-31-80 / ED—Institutional grants for graduate and professional study; comments by 2-17-81

86872 12-31-80 / ED—International Education Programs; selection criteria; comments by 3-2-81

86890 12-31-80 / ED—Law School Clinical Experience Program; comments by 2-17-81

86331 12-30-80 / ED—Legal Profession Training Program; comments by 3-2-81

86928 12-31-80 / ED—National Graduate Fellows Program; comments by 3-2-81

86333 12-30-80 / ED—Pell Grant Program provisions; comments
86394 by 3-2-81

86900 12-31-80 / ED—Special Services for Disadvantaged Students Program; comments by 3-2-81

86922 12-31-80 / ED—Special Programs Staff and Leadership Personnel Training Program; comments by 3-2-81

86854 12-31-80 / ED—Student assistance general provisions; comments by 3-2-81

86908 12-31-80 / ED—Talent Search Program; comments by 3-2-81

86914 12-31-80 / ED—Upward Bound Program; comments by 3-2-81

86812 12-31-80 / HHS/HDSO—Adoption assistance and child welfare services; foster care; State eligibility requirements for additional payments; comments by 3-16-81

86817 12-31-80 / HHS/HDSO—Foster care maintenance and adoption assistance; child welfare services; Federal financial participation; comments by 3-16-81

86511 12-31-80 / LSC—Restrictions on certain activities (legislative advocacy, etc.) by fund recipients; comments by 1-30-81

86328 12-30-80 / VA—Veterans' cost-of-instruction payments (formula grant) program amendments; comments by 3-2-81

APPLICATIONS DEADLINES

85815 12-30-80 / Non-competing continuation projects under National Institute of Handicapped Research; apply by 90 days prior to end of current budget period

167 1-2-81 / HHS/HDSO—Grant funds for child welfare
169 services training program; apply by 3-6-81 (2 documents)

MEETINGS

85810 12-30-80 / Commerce/NTIA—Grant Appeals Board of the Public Telecommunications Facilities Program, Washington, D.C. (open), rescheduled for 1-15-81

86894 12-31-80 / ED—Education Opportunity Centers Program; Washington, D.C., 2-9-81; Chicago, Ill., 2-11-81; San Francisco, Calif. 2-17-81; Dallas, Tex., 2-19-81 (all sessions open)

86900 12-31-80 / ED—Special Services for Disadvantaged Students Program; Washington, D.C. 2-9-81; Chicago, Ill., 2-11-81; San Francisco, Calif., 2-17-81; Dallas, Tex., 2-19-81 (all sessions open)

86922 12-31-80 / ED—Special Programs Staff and Leadership Personnel Training Program; Washington, D.C. 2-9-81; Chicago, Ill., 2-11-81; San Francisco, Calif., 2-17-81; Dallas Tex. 2-19-81 (all sessions open)

86908 12-31-80 / ED—Talent Search Program; Washington, D.C. 2-9-81; Chicago, Ill., 2-11-81; San Francisco, Calif., 2-17-81; Dallas, Tex., 2-19-81 (all sessions open)

86911 12-31-80 / ED—Upward Bound Program; Washington, D.C., 2-9-81; Chicago, Ill., 2-11-81; San Francisco, Calif., 2-17-81; Dallas, Tex., 2-19-81

85610 12-29-80 / DOE/SOLAR—Grant programs for schools and hospitals and for buildings owned by units of local government and public care institutions:

Chicago, Ill., 1-15-81

Washington, D.C., 1-16-81

San Francisco, Calif., 1-20-81

86812 12-31-80 / HHS/HDSO—Adoption assistance and child welfare services; foster care; State eligibility requirements for additional payments; Boston, Mass. and Atlanta, Ga. 1-9-80; San Francisco, Calif. 1-12-80; Chicago, Ill., 1-13-80; Dallas, Tex., 1-14-80; Kansas City, Mo., 1-16-80; Denver, Colo., 1-19-80; Philadelphia, Penn., 1-23-80; New York, N.Y., 1-28-80; Seattle, Wash., 1-29-80 (all sessions open)

86817 12-31-80 / HHS/HSDO—Foster care maintenance and adoption assistance child welfare services, Federal financial participation; Boston, Mass. and Atlanta, Ga., 1-9-81; San Francisco Calif., 1-12-81; Chicago, Ill., 1-13-80; Dallas, Tex., 1-14-81; Kansas City, Mo., 1-16-81; Denver, Colo., 1-19-81; Philadelphia, Penn. 1-23-81; New York, N.Y., 1-28-81; Seattle, Wash., 1-29-81; (all sessions open)

85531 12-29-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 1-7 through 1-16-81

85531 12-29-80 / NFAH—Visual Arts Panel (Conceptual/ Performance/New Genre), Washington, D.C. (closed), 1-15 and 1-16-81

85532 12-29-80 / Visual Arts Panel (Video), Washington, D.C. (closed), 1-9 through 1-11-81

OTHER ITEMS OF INTEREST

85815 12-30-80 / Revocation of requirement for preapplication for major grants under research on knowledge used and school improvement program

[*See also* 45 FR 80575, 12-5-80]




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