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Highlights

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Highlights

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Presidential Documents

Title 3—

The President

Proclamation 4821 of February 23, 1981

Save Your Vision Week

By the President of the United States of America

A Proclamation

Of all God's gifts, the ability to see is one of the most precious. It is the sense of sight that saves mankind from living in darkness. It is the sense of sight that permits individuals to communicate with each other and to future generations through literature and art. It enables man to enjoy the magnificence of a sunset and the promise of a rainbow.

Unfortunately, sight is often taken for granted. Few realize how many of our citizens lose their sight every year. Yet many forms of blindness can be cured if discovered soon enough, and many blinded by accident could have kept their sight had they taken only minor eye safety precautions.

Each of us has the responsibility to care for that which is ours. Our eyesight and the eyesight of our children should be paramount on the list of personal responsibilities. Money cannot buy it, but a check-up and early care can preserve it.

To remind all Americans of the importance of good vision and of the ways we can safeguard our eyesight, the Congress, by joint resolution approved December 20, 1973 (77 Stat. 629, 26 U.S.C. 169a), has requested the President to proclaim the first week in March of each year as "Save Your Vision Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning March 1, 1981, as Save Your Vision Week. I urge all of our citizens to join this observance by showing greater concern for preserving vision and preventing eye injury at home, at work, and at play. Also, I call upon educators and communicators, as well as eye care professionals, to stress to the public the importance of eye care and eye safety for Americans of all ages.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of February, in the year of our Lord nineteen hundred eighty-one, and of the Independence of the United States of America and two hundred and fifth.

Ronald Reagan

[FR Doc. 81-20
Filed 2-24-81; 10:52 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12292 of February 23, 1981

Foreign Service Act of 1980

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Foreign Service Act of 1980 (94 Stat. 2071; 22 U.S.C. 3901 *et seq.*), and in order to conform existing Executive Orders to changes resulting from that Act, it is hereby ordered as follows:

Section 1. Section 1(k) of Executive Order No. 9154, as amended, is amended by inserting immediately before the period at the end thereof a comma and the words "or under authority of section 303 of the Foreign Service Act of 1980 (22 U.S.C. 3943)".

Sec. 2. Section 1 of Executive Order No. 10471 is amended as follows:

(a) strike out "section 202(c) of the Annual and Sick Leave Act of 1951, as added by the act of July 2, 1953, Public Law 102, 83rd Congress" and insert in lieu thereof "section 6305(b) of title 5 of the United States Code";

(b) strike out "said section 202(c)(2)" and insert in lieu thereof "said section 6305(b)";

(c) strike out "section 411 of the Foreign Service Act of 1946" and insert in lieu thereof "section 401 of the Foreign Service Act of 1980 (22 U.S.C. 3961)".

Sec. 3. Section 2 of Executive Order No. 10624, as amended, is amended as follows:

(a) In clause (1), strike out "Title II of the Overseas Differentials and Allowances Act" and insert in lieu thereof "subchapter III of chapter 59 of title 5 of the United States Code";

(b) Clause (2) is amended to read as follows: "so much of the authority vested in the Secretary of State by chapter 9 of Title I of the Foreign Service Act of 1980, as relates to allowances and benefits under the said chapter 9 of title I;"

Sec. 4. Executive Order No. 10903 is amended as follows:

(a) In the preamble, strike out "section 303 of the Foreign Service Act of 1946 (22 U.S.C. 843),";

(b) In section 1(a) strike out "section 111(3) of the Overseas Differentials and Allowances Act (74 Stat. 792)" and insert in lieu thereof "section 5921(3) of title 5, United States Code,";

(c) In Section 1(b):

(1) strike out "Title II of the Overseas Differentials and Allowances Act" and insert in lieu thereof "subchapter III of chapter 59 of title 5 of the United States Code,";

(2) strike out "202, 203, and 221(4)(B) of that Act" and insert in lieu thereof "5922(b), 5922(c), and 5924(4)(B) of that title";

(3) strike out "Title II of the Act" and insert in lieu thereof "said subchapter".

(d) In Section 1(c), strike out "section 22 of the Administrative Expenses Act of 1946 (added by section 311(a) of the Overseas Differentials and Allowances Act)" and insert in lieu thereof "section 5913 of title 5 of the United States Code".

(e) In Section 1(e):

(1) strike out "235(a)(2)" and insert in lieu thereof "235(2)"; and

(2) strike out "section 901 of the Foreign Service Act of 1946, as amended" and insert in lieu thereof "section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085)".

(f) strike out paragraphs (d) and (f) of Section 1 and redesignate paragraphs (e) and (g) thereof as paragraphs (d) and (e), respectively.

Sec. 5. Executive Order No. 11034 is amended by striking out in Section 5(c) after "provided by section" all that follows in that sentence and inserting in lieu thereof "310 of the Foreign Service Act of 1980 (22 U.S.C. 3950).".

Sec. 6. Executive Order No. 11219 is amended as follows:

(a) Section 1 is amended by striking out "officer or employee" and inserting in lieu thereof "member";

(b) Section 1(b) is amended by inserting after "as amended," "the Foreign Service Act of 1980," and by striking out "that Act" and inserting in lieu thereof "the latter Act";

(c) Section 5 is amended by striking out "an officer or employee in" and inserting in lieu thereof "a member of" and by inserting after "as amended," "the Foreign Service Act of 1980," and by striking out "that Act" and inserting in lieu thereof "the latter Act".

Sec. 7. Executive Order No. 12137 is amended as follows:

(a) Section 1–111 is amended by striking out "1946, as amended" and inserting in lieu thereof "1980".

(b) Section 1–401 is amended by striking out "528 of the Foreign Service Act of 1946 (22 U.S.C. 928)" and inserting in lieu thereof, "310 of the Foreign Service Act of 1980 (22 U.S.C. 3950)".

Sec. 8. Executive Order No. 12163 is amended as follows:

(a) Section 1–201(a)(14) is revoked.

(b) Section 1–201(b) is amended by inserting "and" following "602(q)," and by striking out "and 625(k)(1)";

(c) Section 1–602(a) is amended by striking out "625(d)(1)" each time it appears and inserting in lieu thereof "625(d)".

(d) Section 1–602(b) is amended by striking out "section 528 of the Foreign Service Act of 1946" and inserting in lieu thereof "section 310 of the Foreign Service Act of 1980 (22 U.S.C. 3950)".

(e) Section 1–603 is amended by striking out after "allowances", all that follows through "Foreign Service Act of 1946 (22 U.S.C. 801 *et seq.*)," and inserting in lieu thereof "authorized for a chief of mission as defined in section 102(a)(3) of the Foreign Service Act of 1980 (22 U.S.C. 3902(a)(3)),".

Sec. 9. Executive Order No. 12228 is amended as follows:

(a) Section 1–102(c)(1) is amended by striking out "Section 911(9) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1136(9))" and inserting in lieu thereof "Section 901(6) of the Foreign Service Act of 1980 (22 U.S.C. 4081(6))";

(b) Section 1–103 is amended by striking out "Foreign Service Act of 1946, as amended" and inserting in lieu thereof "Foreign Service Act of 1980".

Sec. 10. The following are hereby revoked:

(a) Executive Order No. 9452 of June 26, 1944;

(b) Executive Order No. 9799 of November 8, 1946;

(c) Executive Order No. 9837 of March 27, 1947;

(d) Executive Order No. 9932 of February 27, 1948;

(e) Executive Order No. 10249 of June 4, 1951;

(f) Section 2 of Executive Order No. 10477 of August 1, 1953;

(g) Executive Order No. 10897 of December 2, 1960;

(h) Part III of Executive Order No. 11264 of December 31, 1965, as amended;

(i) Sections 1, 3, and 5 of Executive Order No. 11434 of November 8, 1968;

(j) Executive Order No. 11636 of December 17, 1971;

(k) Executive Order No. 12066 of June 29, 1978;

(l) Executive Order No. 12145 of July 18, 1979;

(m) Section 1–104(b) of Executive Order No. 12188 of January 2, 1980.

Sec. 11. This Order shall be effective as of February 15, 1981.

Ronald Reagan

THE WHITE HOUSE,
February 23, 1981.

[FR Doc. 81–21
Filed 2–24–81; 10:53 am]
Billing code 3195–01–M

Presidential Documents

Executive Order 12293 of February 23, 1981

The Foreign Service of the United States

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Foreign Service Act of 1980 (94 Stat. 2071, 22 U.S.C. 3901 *et seq.*), Section 202 of the Revised Statutes (22 U.S.C. 2656), and Section 301 of Title 3 of the United States Code, and in order to provide for the administration of the Foreign Service of the United States, it is hereby ordered as follows:

Section 1. There are hereby delegated to the Secretary of State those functions vested in the President by Sections 205, 401(a), 502(c), 613, and 801 of the Foreign Service Act of 1980, hereinafter referred to as the Act (22 U.S.C. 3925, 3942(a)(1), 3892(c), 4013, and 4041).

Sec. 2. The Secretary of State shall, in accord with Section 205 of the Act (22 U.S.C. 3925), consult with the Secretary of Agriculture, the Secretary of Commerce, the Director of the International Communication Agency, the Director of the United States International Development Cooperation Agency, the Director of the Office of Personnel Management, and the Director of the Office of Management and Budget, in order to ensure compatibility between the Foreign Service personnel system and other government personnel systems.

Sec. 3. The Secretary of State shall make recommendations to the President through the Director of the Office of Management and Budget whenever action is appropriate under Section 827 of the Act (22 U.S.C. 4067) to maintain existing conformity between the Civil Service Retirement and Disability System and the Foreign Service Retirement and Disability System.

Sec. 4. In accord with Section 402 of the Act (22 U.S.C. 3962), there are established the following salary classes with titles for the Senior Foreign Service (SFS), at basic rates of pay equivalent to that established from time to time for the Senior Executive Service (ES) under Section 5382 of Title 5 of the United States Code.

Career Minister

(a) Basic rate of pay equivalent to ES 6.

Minister-Counselor

(a) Basic rate of pay equivalent to ES 6, or

(b) Basic rate of pay equivalent to ES 5, or

(c) Basic rate of pay equivalent to ES 4.

Counselor

(a) Basic rate of pay equivalent to ES 6, or

(b) Basic rate of pay equivalent to ES 5, or

(c) Basic rate of pay equivalent to ES 4, or

(d) Basic rate of pay equivalent to ES 3, or

(e) Basic rate of pay equivalent to ES 2, or

(f) Basic rate of pay equivalent to ES 1.

Sec. 5. There is hereby delegated to the Secretary of State, without further action by the President, the authority vested in the President by Section 2107

of the Act to the extent necessary to implement the provisions of Section 2101 of the Act, relating to pay and benefits pending conversion.

Sec. 6. (a) Pursuant to Section 211 of the Act (22 U.S.C. 3931), there is established in the Department of State the Board of Examiners for the Foreign Service.

(b) The Board shall be appointed by, and in accordance with regulations prescribed by, the Secretary of State, except that not less than five shall be career members of the Foreign Service and not less than seven shall be appointed as follows.

(1) not less than five shall be appointed by the heads of the agencies utilizing the Foreign Service personnel system;

(2) not less than one shall be a representative appointed by the Director of the Office of Personnel Management; and

(3) not less than one shall be a representative appointed by the Secretary of Labor.

(c) The Secretary of State shall designate from among the members of the Board a Chairman who is a member of the Service.

(d) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

Sec. 7. For the purpose of ensuring the accuracy of information used in the administration of the Foreign Service Retirement and Disability System, the Secretary of State may request from the Secretary of Defense and the Administrator of Veterans Affairs such information as the Secretary deems necessary. To the extent permitted by law: (a) The Secretary of Defense shall provide information on retired or retainer pay provided under Title 10, United States Code; and, (b) the Administrator of Veterans Affairs shall provide information on pensions or compensation provided under Title 38 of the United States Code. The Secretary, in consultation with the officials from whom information is requested, shall ensure that information made available under this Order is used only for the purpose authorized.

Sec. 8. This Order shall be effective as of February 15, 1981.

Ronald Reagan

THE WHITE HOUSE,
February 23, 1981.

[FR Doc. 81-22
Filed 2-24-81; 10:54 am]
Billing code 3195-01-M

Rules and Regulations

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 19, 20, 21, 30, 40, 51, 60, and 70

Disposal of High-Level Radioactive Wastes In Geologic Repositories: Licensing Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (Commission or NRC) is publishing a final rule on the disposal of high-level radioactive wastes at geologic repositories. The rule sets forth requirements applicable to the Department of Energy for submitting an application for a license and specifies the procedures which the Commission will follow in considering such an application. The rule also sets forth provisions for consultation and participation in the license review by State, local, and Indian tribal governments.

EFFECTIVE DATE: March 27, 1981.

FOR FURTHER INFORMATION CONTACT: I. C. Roberts, Assistant Director for Siting Standards, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443–5985.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1979, the Nuclear Regulatory Commission published for comment a proposed rule setting forth procedures for licensing geologic high-level radioactive waste (HLW) repositories to be constructed and operated by the Department of Energy (DOE) (44 FR 70408). The proposed rule superseded the proposed General Statement of Policy published for comment in November 1978 (43 FR 53869). Public comment on the proposed rule (10 CFR Part 60) was received from thirty-four groups and individuals. A number of changes and clarifications have been made in the rule as a result of comments received. This rule contains only the procedural requirements for licensing. The technical criteria against which the license application will be reviewed are still under development. The current staff thinking on the technical criteria was reflected in an Advance Notice of Proposed Rulemaking and draft technical criteria published for public comment on May 13, 1980 (45 FR 31393).

The Commission has made a formal determination that the final rule 10 CFR Part 60 satisfies the criteria for the approval of significant regulations set out in section 2(d) of Executive Order 12044.

Authority

Sections 202 (3) and (4) of the Energy Reorganization Act of 1974, as amended, provide the NRC with licensing and regulatory authority regarding DOE facilities used primarily for the receipt and storage [1] of the high-level radioactive wastes resulting from activities licensed under the Atomic Energy Act and certain other long-term, high-level waste storage facilities of the DOE. Pursuant to that authority, the Commission is promulgating regulations appropriate for licensing geologic disposal of HLW by the DOE. The requirement in the rule that DOE submit a Site Characterization Report in advance of performing exploration activities also implements Section 14(a) of the NRC Authorization Act of 1979 (Pub. L. 95–601).[2] DOE is responsible for developing the methods and technology for the permanent disposal of high-level radioactive waste in a Federal repository, and for submitting a license application for a potential repository. The licensing procedures in this rule will be supplemented by technical criteria which will be developed by the Commission in the light of such generally applicable environmental standards as may have been established by the Environmental Protection Agency under Reorganization Plan No. 3 of 1970.

Questions have been raised in the past about the authority of NRC to regulate the construction of the waste repository. DOE activities that take place before an application if filed and may affect the long-term safety of the repository obviously may preclude receipt of a construction authorization. The Commission has concluded that NRC may use its powers to regulate construction of the repository. Accordingly, the Commission may, if necessary, issue orders to secure compliance with construction authorization conditions and to protect the integrity of the repository. In addition, failure to comply with the conditions of any construction authorization may also be grounds for denial of a license to receive material.

Comments

A total of thirty-four groups and individuals commented on the proposed rule, addressing a variety of issues. Most of the commenters viewed the proposed rule as a significant improvement over the proposed General Statement of Policy, and, generally, the comments were supportive of the principles and procedures outlined in the proposed rule. The principal comments received related to multiple site characterization, in situ testing at depth, cost estimates for site characterization, whether the rule should require that the site selected by DOE be the "best", whether an environmental impact statement (EIS) should be required for site characterization, whether the Commission should prepare an EIS for this rulemaking action, opportunities for State, local and public participation, formal public hearings, the preliminary nature of some information to be included in an application for construction authorization, and the termination of a license following decommissioning. Summaries of the comments received on these issues are presented below. Copies of the comments and an analysis of them by the NRC staff are available in the Commission's Public Document Room.

[1] The Commission interprets "storage" as used in the Energy Reorganization Act to include disposal.

[2] Section 14(a) reads as follows: Any person, agency, or other entity proposing to develop a storage or disposal facility, including a test disposal facility, for high-level radioactive wastes, non-high-level radioactive wastes including transuranium contaminated wastes, or irradiated nuclear reactor fuel, shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed situs whenever the Commission has knowledge of such proposal.

Some of the commenters raised issues that will be covered in the technical criteria; those will be dealt with in connection with the ongoing rulemaking for those criteria.

a. *Site Characterization.* Comments on site characterization straddled the Commission position set forth in the proposed rule. Some commenters agreed with the requirement for multiple site characterization as presented in the proposed rule. Some commenters expressed the opinion that multiple site characterization was not required for the Commission to fulfill its NEPA obligation to consider alternatives. The Commission has carefully reviewed arguments presented by the commenters who stated that multiple site characterization is not necessary. The Commission continues to believe that required multiple site characterization provides the only effective means by which it can make a comparative evaluation as a basis for arriving at a reasoned decision under NEPA. Other commenters believed that the requirements for multiple site characterization were not stringent enough, and suggested that the rule specify the number of geologic media and sites to be characterized by the DOE. The Commission continues to believe that characterization of several sites will prevent a premature commitment by DOE to a particular site, and will assure that DOE's preferred site will be chosen from a slate of candidate sites that are among the best that can reasonably be found. The Commission considers three sites in two geologic media, at least one of which is not salt, to be the minumum number needed to satisfy NEPA. That is, the Commission can foresee no circumstance that would permit it to conclude, on the basis of a more limited investigation, that alternatives have been considered in accordance with the "rule of reason." Further it is the present judgment of the Commission that for purposes of making a reasoned choice there is not sufficient difference between bedded salt and domed salt for them to be considered two distinct alternative media. However, because the "rule of reason" is intrinsically flexible, the Commission does not believe that it would be appropriate for these regulations to specify more than the minimum number or type of geologic media and sites that DOE must characterize during multiple site characterization. What is important is that there be sufficient information for NRC to be able to evaluate real alternatives, in a timely manner, in accordance with NEPA.

Information on plans for considering alternative sites is to be included in the Site Characterization Report. This provision was questioned by some commenters. This information is needed so that any deficiency may be the subject of "specific recommendations" by the Director of the NRC's Office of Nuclear Material Safety and Safeguards, (Director) as provided in § 60.11(e), with respect to additional information that might be needed by the Commission in reviewing a license application in accordance with NEPA.

Another commenter raised the issue that in addition to the need to consider alternatives under the provisions of NEPA, the need for characterizing several sites in a variety of media is also justified by NRC's obligation under the Atomic Energy Act to protect public health and safety. The Commission recognizes that, under the provisions of the Atomic Energy Act, a consideration of alternatives might indeed be appropriate, where necessary or desirable to protect health. (Section 161g.) The Commission cannot say at this point that an examination of alternatives would be essential for this purpose. The Commission anticipates that its fundamental licensing inquiry in the context of evaluating radiological safety issues will be directed to determining whether the activities proposed by the DOE can be carried out in a manner consistent with generally applicable environmental standards established by the Environmental Protection Agency.

The Commission also continues to believe that waste form research is an appropriate topic for treatment in the Site Characterization Report, as the discussion may lead to specific recommendations by the Director, and, as well, contribute to early examination and broader understanding of possible waste form/host rock interactions. Further, wording of § 60.11(a) has been changed from "waste form" to "waste form and packaging" to convey better the concept that the NRC will seek information relating to the interaction of the waste as emplaced (hence including packaging) with the host rock.

In response to one commenter's suggestion that the Site Characterization Report be made to NRC on a site by site basis, § 60.11(a) has been revised to require DOE to submit a separate Site Characterization Report for each site to be characterized.

There were also suggestions that the distinction between site characterization and screening activities be drawn more sharply. However, because the activities needed prior to characterization may depend on a variety of factors peculiar to the site and geologic medium, the Commission has concluded that greater precision might be unduly restrictive.

The DOE requested clarification of the term "site". Definitions of both the terms "site" and "medium" will be set forth when the technical criteria are published.

b. *In Situ Testing at Depth.* Several commenters supported the Commission view on in situ testing at depth. Some commenters, noting the importance of in situ testing at depth, suggested that the rule require the DOE to include in situ testing at depth in its site characterization program. The U.S. Geological Survey (USGS) supported required in situ testing at depth at a number of sites prior to NRC adjudicatory hearings, so that such hearings could proceed on the basis of critical, site-specific data on the candidate host rocks and environs rather than on inferences derived from a limited number of drill holes supplemented by geophysical techniques. The USGS expressed the opinion that direct observation and in situ testing of host media will be the only way to characterize sites with confidence. Several other commenters objected to the Commission suggestion that in situ testing at depth may be necessary. The possibility of in situ testing at depth after a preferred repository site has been selected was also suggested.

The Commission, like the USGS, believes that in situ testing at depth[3] is an essential technique for DOE to obtain sufficient data to determine whether and to what extent the surrounding geologic medium is suitable for hosting a geologic repository. This belief is supported by the ever-present possibility of lateral changes in the properties of the host rock and the possible presence of inhomogeneities of too small a scale to be detected by remote or borehole techniques. Moreover, in order for NRC to be able to conclude that the alternatives to DOE's preferred site are in fact reasonable alternatives for the intended purpose, in situ testing at depth is essential to characterizing alternative sites as well. The NRC will then be able to determine, after considering all relevant environmental factors as contemplated by NEPA, whether a construction authorization at DOE's

[3] The Commission interprets the phrase "in situ testing at depth" to mean the conduct of those geophysical, geochemical, hydrologic, and/or rock mechanics tests performed from a test area at the base of a shaft excavated to the proposed depth of a potential repository in order to determine the suitability of a particular site for a geologic repository.

proposed site should be issued. Thus, the Commission requires in situ testing at depth in the rule. It is conceivable, however, that techniques may be developed to obtain the necessary data at a particular site without in situ testing at depth. In such a case, DOE may request an exemption from the in situ testing at depth requirement. DOE, like any applicant for an NRC license, has the burden of establishing that NRC requirements have been met; and the regulations require DOE to undertake any testing needed to determine the suitability of the site for a geologic repository. Thus, if exploration and in situ testing at depth were not undertaken, DOE would still have the same burden of obtaining and supplying to the Commission information needed to establish the suitability of the site.

c. *Cost Estimates for Site Characterization.* Cost estimates for site characterization cited in the Supplementary Information accompanying the proposed rule were regarded by some commenters as being too low. Much of the data for the cost estimate of $20 million per site was derived from the Teknekron Inc. report, "A Cost Optimization Study for Geologic Isolation of Radioactive Wastes," May 1979, prepared under contract with Battelle Pacific Northwest Laboratories. The NRC staff has reexamined its previous estimate and still believes that figure of $20 million was a realistic estimate for the "at depth" portion of the site characterization program considered at that time. Independent support of this figure has been obtained from the cost summary of $16 million for a program during 1978–1979 analogous to site characterization conducted by the Bureau of Mines at its Environmental Research Facility in Colorado.

The DOE has developed a preliminary design for an underground test facility in New Mexico at which many site characterization activities could be conducted. The estimated cost of the facility was $27 million (1980 dollars). This figure has been confirmed by American Mine Services under contract to NRC. The scope of the DOE preliminary design surpasses the extent of activities suggested for the "at depth" portion of site characterization in the proposed rule. For example, the DOE Site Preliminary Verification Project Plan includes extensive underground mining development. The Commission has come to believe, however, that a facility consisting of two shafts and up to 1,000 feet of tunnels is a more practical arrangement for conducting tests and experiments at depth for site characterization. Therefore, the Commission believes a $25–30 million figure represents the upper limit for the "at depth" portion of site characterization in soft rock. Cost estimates for site characterization including in situ testing at depth in hard rock may range up to 30% more than cost figures for soft rock.

d. *The "Best" Site.* Some commenters suggested that the final rule should require that the site selected by the DOE be the "best". Yet other commenters thought that the Commission was setting an unattainable goal of perfection for the selection of the site for a geologic repository. It remains the Commission's view that the process of multiple site characterization provides a workable mechanism by which the DOE will be able to develop a slate of candidate sites that are among the best that can reasonably be found and from which DOE will select its preferred site.

It generally has been NRC practice to consider only whether a license application meets prescribed criteria. The Commission perceives no reason to adopt a different philsosphy here.

e. *Environmental Impact Statement.* Some commenters believed that the NRC should require that the DOE submit an Environmental Impact Statement (EIS) at the site characterization stage. Other commenters believed that DOE need only submit an Environmental Report or an Envirionmental Assessment for site characterization. In its comment letter on the proposed rule, the DOE stated that a decision to bank or withdraw a site or to conduct a site characterization by more extensive methods such as sinking a shaft will require the preparation of an EIS. In any event, since NRC is undertaking no "major Federal action" in connection with site characterization, it has no statutory basis for prescribing what steps DOE must take in order to be in compliance with NEPA.

The rule requires submission of an Environmental Report along with the Safety Analysis Report at the time of application for a license. If DOE has prepared an EIS that document can be used so long as it contains the information called for by the regulation. However, NRC cannot be bound to accept judgments arrived at by DOE in its EIS.

One commenter suggested that the NRC should prepare an EIS for the rulemaking action. The Commission determined that this was not necessary as part of its review and approval of publication of the proposed rule. Instead, an Environmental Impact Appraisal was prepared for those requirements which might have environmental impacts. Those impacts were found not to be significant. This Environmental Impact Appraisal has recently been updated and no new impact was found to be significant. A copy of the updated appraisal is available for inspection and copying at the Commission's Public Document Room.

f. *State, Local, and Public Participation.* The proposed rule included detailed provisions to ensure extensive opportunities for participation by State and local governments and the general public in the review of the DOE's programs for site selection and site characterization. The consultation role of the States in reviewing applicable NRC regulations and licensing procedures, as well as participation in the licensing process, was treated explicitly in the proposed rule. However, a more formal role of "consultation and concurrence" for States was requested by some commenters. Suggestions were also made that the Commission require the DOE to solicit input from State, Indian tribal and local governments as well as from the general public prior to and during site characterization.

The Commission's views on this subject were set out at length in a report submitted to the Congress on "Means for Improving State Participation in the Siting, Licensing and Development of Federal Nuclear Facilities," NUREG–0539, March 1979, cited in the Supplementary Information accompanying the proposed rule. The concerns of the commenters on broad policy issues such as "consultation and concurrence" would require actions by parties other than the Commission. Within the context of NRC's existing authority, appropriate opportunities for meaningful State and public participation have been developed. No serious deficiencies in these opportunities have been pointed out to the NRC. In addition, the provisions of the NRC's open meeting policy set forth at 43 FR 28058 (June 28, 1978) will also be applied to the licensing of a geologic repository to the extent practicable. Under this policy, generally, all meetings conducted by the NRC technical staff as part of its review of a particular domestic license or permit application will be open to attendance by all parties or petitioners for leave to intervene in the case. The Commission strongly encourages the Director to conduct open meetings prior to a license application to the extent reasonable for matters such as periodic status reports and similar proceedings.

It should be noted, however, that proposals for intervenor funding have not been incorporated as suggested by some commenters. This question may be addressed separately in the context of rulemaking applicable to various adjudicatory proceedings, should the Commission be given statutory authority, which it now lacks, to provide such funding.

In response to commenters' suggestions, the rule has been clarified with respect to notice to and participation by Indian tribes.

g. *Public Hearings.* The issue of whether public hearings should be mandatory during the pre-licensing and/or licensing stages of geologic disposal of HLW was addressed by a numbers of commenters. Two commenters suggested that hearings be required prior to site characterization. One commenter suggested that public hearings should be held in the vicinity of a proposed site prior to the approval of a Site Characterization Report, while another commenter suggested that hearings be held prior to in situ testing at depth. It was also proposed by another commenter that public hearings be held on DOE's research and development work on waste forms. Finally, two other commenters believed that formal hearings should be mandatory prior to granting construction authorization to DOE. These issues were discussed at the time the rule was proposed. The Commission then concluded, in light of the limited information available at the site characterization stage, that formal hearings were not warranted at that point. The commenter did not deny the relevance of the policy considerations identified by the Commission, but would have balanced these considerations differently. But this is a matter of judgment, and the NRC adheres to its original position for the reasons then offered. Also, the NRC must decline to review DOE research and development programs formally. NRC's statutory authority includes "licensing and related regulatory authority" as to certain DOE facilities. Although it is important to follow DOE's program closely, the Commission would not be warranted in formalizing a review process with respect to that program.

In reviewing the procedures for formal proceedings in connection with licensing, the Commission has determined that hearings would be in the public interest prior to the granting of construction authorization. An amendment (in § 2.101(f)(8)) has the effect of mandating such hearings. In addition, hearings will be held upon the request of any interested person prior to finally granting a license to receive and possess high-level radioactive waste at a geologic repository operations area and before granting license amendments to decommission or terminate a license.

As in the case of facility licensing matters, ex parte communications would be restricted while on-the-record proceedings are pending. Because a construction authorization (unlike a construction permit) is not a license, its issuance does not constitute a final decision on the pending application. To avoid any unintended implication that the ex parte rule (10 CFR 2.780) would apply between the construction authorization proceedings and the commencement of formal proceedings prior to receipt of wastes, that rule has been amended to provide specifically that a final decision with respect to issuance of construction authorization will be deemed, unless the Commission orders otherwise, to terminate, for purposes of the ex parte rule, formal proceedings then pending before the NRC with respect to the application.

The rule has also been revised to provide that in cases involving public hearings, the initial decision of the presiding officer shall not be immediately effective. (§ 2.764.) It is further provided that even if no hearing has been held, the Director of Nuclear Material Safety and Safeguards will not issue a construction authorization, license, or significant amendment until expressly authorized to do so by the Commission. The Commission has not yet determined the specific procedures for agency review of an initial decision. It will be the Commission's intention, however, to provide expeditious action on an initial decision to avoid any undue delays in the licensing process. These changes, while not issued in direct response to commenters' suggestions, reflect sentiments that the Commission itself should be involved in major decisions on these facilities.

h. *Preliminary Nature of the Information to be Included in an Application for Construction Authorization.* A number of commenters expressed the opinion that the wording of § 60.21 did not explicitly reflect the preliminary nature of some of the information that would be available at the construction authorization stage. Some commenters believed that certain categories of information, such as emergency plans and plans for retrieval, did not seem necessary, at least in full detail, at the construction authorization stage. In view of the fact that § 60.21 must be read in conjunction with § 60.24(a), which specifies that the application "shall be as complete as possible in light of information that is reasonably available at the time of docketing," no change to the proposed rule is required. Further, § 60.24(b) specifically lists several categories of information which, where appropriate, may be left for consideration only at the state of license issuance.

i. *Termination of a License.* Two commenters opposed the provisions (§ 60.52) for the termination of a license for a repository after decommissioning. The Commission believes that there will be considerable debate regarding license termination during the period between adoption of rules and implementation of their provisions. Although the Commission could have omitted the topic altogether, it believes that some recognition of the issue is desirable so that the rule covers the entire process. It should be noted that there is no assurance under the language that the license would be terminated since a decision to do so could only be made if "authorized by law." The Commission wishes to emphasize that criteria to be used in making a decision to decommission a repository are not included in this procedural rule but will be set forth either within the technical criteria of Part 60 or as a future regulation or policy statement.

Changes

The final rule contains the following changes from the proposed rule as published in December 1979.

a. *Definition of the term "Disposal".* Commenters noted that the proposed definition of the term "disposal" embodied the contradictory concepts of "permanent emplacement" and possible retrieval for purposes other than resource value. The definition has been modified to reflect usage of the term "disposal" in the rule as the condition in which isolation is required. (§ 60.2(f))

b. *Incidental Uses of Radioactive Materials.* The DOE noted that the proposed rule could have the effect of prohibiting the use of source, special nuclear, and byproduct materials at the site during site characterization and facility construction. The DOE referred to the desirability of being able to use such materials, for example, as radiography sources and radiation monitoring test sources. There may also be a need to employ a small amount of radiactive material for in situ testing in the course of site characterization activities.

The Commission did not intend to restrict DOE's use of radioactive materials for the stated purposes, and has clarified the point by adding a new section, § 60.7, which expressly recognizes that DOE (which is exempt

from NRC licensing except as expressly required to be licensed) need not be licensed for such preliminary activities. This is not an exemption under the exemption provisions of the Atomic Energy Act, but rather an interpretation of the Commission's jurisdiction under Section 202 of the Energy Reorganization Act of 1974. In other words, the "facility" that the NRC is licensing is one at which high-level radioactive wastes are actually stored. To the extent that the procedures call for earlier NRC involvement, that involvement would be undertaken with a view to long-term health and safety considerations; but during site characterization and prior to emplacement of waste, there would be no "facility" for storage of high-level waste and no basis for the exercise of licensing authority over the incidental use of source, special nuclear, and byproduct material by DOE.

Once operations at a facility have been licensed, the Commission believes it should regulate the use of all licensable materials onsite, so as to avoid fragmentation of responsibility and accountability with respect to radiological safety (particularly as it may affect occupational exposures).

The change does not respond to the DOE's additional concern that the proposed rule would prohibit construction and operation of a surface facility for the storage of spent reactor fuel at a repository site prior to issuance of a Part 60 license. Should this situation actually arise in practice, the Commission would consider granting an exemption so as to permit licensing to be carried out under other parts of NRC regulations.

c. *Site Characterization.* Following detailed consideration of public comments, the Commission has decided to require in situ testing at depth and to specify the minimum number of sites to be considered as alternatives during site characterization.

d. *Site Characterization Report.* One commenter on the proposed rule suggested that the description of the DOE's planned site characterization program include a preliminary design of the repository. Knowledge of the proposed design would help indicate how the testing program related to the repository layout. The Commission has made it explicit that the Site Characterization Report include a conceptual design of the geologic repository operations area. This is needed so as to permit analysis of certain aspects of the site characterization program. (§ 60.11(a).)

The provisions of § 60.11(a) have been modified by the addition of a footnote to indicate that information on the criteria and methods used for site selection, identification and location of alternative sites and media, and the decision process used to select the site, including means used to obtain State, Indian tribal and public views, which all can be expected to be in DOE's Environmental Impact Statement for site characterization, need not be duplicated in the Site Characterization Report, but can be incorporated by reference.

§ 60.11(e) has been modified to state explicitly that a copy of NRC's final site characterization analysis and the Director's opinion will be transmitted to DOE.

The provisions of § 60.11(g) have been changed to require DOE to permit NRC staff to visit and inspect the site and observe excavations, borings, and in situ tests as they are done. The NRC believes that such a requirement is essential for NRC to determine that site characterization activities have no adverse impacts upon site safety.

The proposed rule contained provisions which would permit the DOE to include multiple sites in a single Site Characterization Report. In response to public comment, and for the sake of clarity, the final rule requires a separate Site Characterization Report for each site to be characterized.

The Commission reiterates that the Site Characterization Report will be reviewed by the NRC staff with opportunity for public comment on the NRC staff analysis of the DOE Site Characterization Report. DOE has indicated that it will provide opportunity for public comment on its Site Characterization Report prior to submittal to the NRC. Also, the Commission continues to anticipate that it will hold local public meetings in the immediate area of the site to be characterized. These meetings will be held both to disseminate information and to obtain public input which will be factored into the final version of the staff analysis.

The period for comment on the NRC's draft site characterization analysis has been extended from a minimum of 60 days to a minimum of 90 days in response to public comment. (§ 60.11(e))

The provision concerning semiannual progress reports has been expanded so as to provide additional guidance to the DOE on the contents of those reports. (§ 60.11(g)) In addition, § 60.11(g) now contains a provision which requires DOE to provide in report form, any information related to site characterization, when requested by the Director.

The rule has been revised to permit the Director to comment at any time in writing to DOE to express views on any aspect of site characterization (§ 60.11(h)).

e. *Content of License Application.* Provisions which set forth the general information to be included in an application have been expanded to include a description of site characterization work actually conducted by DOE at all sites considered and, as appropriate, explanations of why such work differed from the description of program in the Site Characterization Report for each site (60.21(b)(5)). It is expected that such a provision will facilitate the evaluation of DOE's site characterization by the public.

f. *Construction Authorization Findings.* The necessary findings by the Commission on environmental matters (§ 60.31(c)) have been revised to conform to the language in other portions of the Commission's regulations. Contrary to the views expressed by a commenter, the Commission regards this provision as being fully consistent with the requirements of NEPA. Further specificity may be provided, however, particularly with respect to the criteria for evaluating alternative sites at the time technical criteria are proposed.

The Commission has declined to modify the common defense and security finding, which one commenter characterized to be "so vague as to be of no consequence." The proposed "inimicality" findings, §§ 60.31(b) and 60.41(c), reflect the legal standards set forth in the Atomic Energy Act, in particular Section 57c.(2) thereof. The concerns here related generally to protection of classified information and materials, protection against loss or diversion of nuclear waste materials from the repository, and protection against radiological sabotage at the repository. Detailed regulations appear in other parts of this chapter on protection of classified matters and no further special provisions appear to be required for Part 60. See 10 CFR Part 2, subpart I, Part 25, Part 95. Radiation hazards associated with high-level radioactive wastes make them inherently unattractive as a target for diversion, and therefore no detailed provisions appear to be warranted at this time for protection against loss or diversion. The rule has been changed to require DOE to describe the elements of its plan to protect against sabotage. However, DOE, as a Federal agency operating under the Atomic Energy Act, has its own obligation to promote the common defense and security. Indeed, DOE is responsible under the Atomic

Energy Act for protection of materials and facilities far more sensitive from a safeguards standpoint than nuclear waste materials in a geologic repository. Therefore, the rule provides that a DOE certification that its repository operations area safeguards are equal to those at comparable DOE surface facilities shall constitute a rebuttable presumption on the question of inimicality to the common defense and security.

g. *Conditions of Construction Authorization.* The final rule specifies (§ 60.32(b)) that the construction authorization "will incorporate" conditions requiring the submission of certain periodic or special reports. This wording differs from that of the proposed rule which stated that the Commission "may, at its discretion incorporate" these conditions. The NRC agrees with a commenter that such reports will be needed and that there is no reason to reserve discretion, as the proposed rule would have done. The particulars of the conditions would, of course, depend upon the nature of the project that is to be constructed.

A new paragraph 60.32(c) has been included in the final rule to inform DOE that the construction authorization will include restrictions on subsequent changes to the features of the repository and the procedures authorized. These restrictions will fall into three categories of descending importance to public health and safety as follows: (1) those features and procedures which may not be changed without (i) 60 days prior notice to the Commission, (ii) 30 days notice of opportunity for a prior hearing, and (iii) prior Commission approval; (2) those features and procedures which may not be changed without (i) 60 days prior notice to the Commission, and (ii) prior Commission approval; and (3) those features and procedures which may not be changed without 60 days prior notice to the Commission. Features and procedures falling in category (3) may not be changed without prior Commission approval if the Commission, after having received the required notice, so orders.

Not every feature and procedure in the license application at the time the construction authorization is issued would need to be included in one of the three categories. There will be a number of matters that could be changed as construction progresses without prior notice to the Commission. Such changes would be brought to the Commission's attention when the license application is updated prior to issuance of a license to receive wastes. Also, it is contemplated that changes to features or procedures included in these categories of license conditions considered minor with respect to the public health and safety, could be made with prior notice to the Commission but without prior Commission approval.

h. *License Specifications.* The Commission has accepted a suggestion to delete a requirement for including, as license conditions, restrictions as to the location and characteristics of the storage medium. As noted by a commenter, these features may be inherent in the storage medium itself.

i. *Inspections.* The final rule contains a provision (§ 60.73(c)) requiring DOE to provide onsite office space for the exclusive use of NRC inspectors and personnel.

j. *Participation of Indian Tribes.* Several changes have been made in the rule to provide for full participation by Indian tribes in the licensing procedures. These changes generally provide that tribes shall have the same opportunities as governmental units. A new Section 60.64 provides that Indian Tribes shall have the same opportunities as States to submit proposals for their participation in the NRC review. These proposals shall be approved (and may be funded) if appropriate findings can be made concerning the contribution to be made to the licensing review. A new Section 60.65 makes it clear, however, that the Director shall endeavor to avoid duplication of effort when acting on multiple proposals, to the extent that this can be accomplished without substantial prejudice to the parties involved.

k. *Preparation of an Environmental Impact Statement prior to issuance of license to receive and possess HLW.* The requirement that the NRC prepare and circulate an EIS prior to issuing a license to receive and possess HLW has been deleted (51.5(a)(11)). Since an EIS will be prepared by NRC prior to granting construction authorization for a geologic respository operations area, it may not be necessary to prepare a second EIS. Rather, after the construction authorization stage, the NRC will perform environmental assessments, and, as appropriate, will supplement the EIS or determine that no such supplemental statement is required.

l. *Records and Tests.* The term "significant" has been deleted from Section 60.71(c)(3). The Commission requires notification of all deviations from license conditions.

m. *Definition of the term "Commission."* A definition of the term "Commission" has been added to the final rule to make it clear that in Part 60, the "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, Public Law 95-601 (November 6, 1978), the National Environmental Policy Act of 1969, as amended, and sections 552 and 553 of title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter I, Code of Federal Regulations are published as a document subject to codification.

PART 2—RULES OF PRACTICE

1. Section 2.101 is amended to add a new paragraph (f) to read as follows:

§ 2.101 Filing of application.

* * * * *

(f)(1) Each application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter and any environmental report required in connection therewith pursuant to Part 51 of this chapter shall be processed in accordance with the provisions of this paragraph.

(2) To allow a determination as to whether the application or environmental report is complete and acceptable for docketing, it will be initially treated as a tendered document, and a copy will be available for public inspection in the Commission's Public Document Room. Twenty copies shall be filed to enable this determination to be made.

(3) If the Director of Nuclear Material Safety and Safeguards determines that the tendered document is complete and acceptable for docketing, a docket number will be assigned and the applicant will be notified of the determination. If it is determined that all or any part of the tendered document is incomplete and therefore not acceptable for processing, the applicant will be informed of this determination and the respects in which the document is deficient.

(4) The Director may determine the environmental report to be not complete and therefore not acceptable for processing if it fails to include the required site characterization data, including the results of appropriate in situ testing at depth for each site characterized, with respect to the number of sites and media specified in § 51.40 of this chapter. If such a determination is made, the Director shall request the DOE to submit, within a specified time, such characterization data as the Director determines to be

necessary. If the DOE fails to provide the requested data within the time specified, the application shall be subject to denial under § 2.108.

(5) With respect to any tendered document that is acceptable for docketing, the applicant will be requested to (i) submit to the Director of Nuclear Material Safety and Safeguards such additional copies as the regulations in Parts 60 and 51 require, (ii) serve a copy on the chief executive of the municipality in which the geologic repository operations area is to be located or, if the geologic repository operations area is not to be located within a municipality, on the chief executive of the county (or to the Tribal organization, if it is to be located within an Indian reservation), and (iii) make direct distribution of additional copies to Federal, State, Indian Tribe, and local officials in accordance with the requirements of this chapter and written instructions from the Director of Nuclear Material Safety and Safeguards. All such copies shall be completely assembled documents, identified by docket number. Subsequently distributed amendments, however, may include revised pages to previous submittals and, in such cases, the recipients will be responsible for inserting the revised pages.

(6) The tendered document will be formally docketed upon receipt by the Director of Nuclear Material Safety and Safeguards of the required additional copies. The date of docketing shall be the date when the required copies are received by the Director of Nuclear Material Safety and Safeguards. Within ten (10) days after docketing, the applicant shall submit to the Director of Nuclear Material Safety and Safeguards a written statement that distribution of the additional copies to Federal, State, Indian Tribe, and local officials has been completed in accordance with requirements of this chapter and written instructions furnished to the applicant by the Director of Nuclear Material Safety and Safeguards. Distribution of the additional copies shall be deemed to be complete as of the time the copies are deposited in the mail or with a carrier prepaid for delivery to the designated addressees.

(7) Amendments to the application and environmental report shall be filed and distributed and a written statement shall be furnished to the Director of Nuclear Material Safety and Safeguards in the same manner as for the initial application and environmental report.

(8) The Director of Nuclear Material Safety and Safeguards will cause to be published in the **Federal Register** a notice of docketing which identifies the State and location at which the proposed geologic repository operations area would be located and will give notice of docketing to the governor of that State. The notice of docketing will state that the Commission finds that a hearing is required in the public interest, prior to issuance of a construction authorization, and will recite the matters specified in § 2.104(a) of this part.

2. Section 2.103(a) is revised to read as follows:

§ 2.103 Action on applications for byproduct, source, special nuclear material, and operator licenses.

(a) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, finds that an application for a byproduct, source, special nuclear material, or operator license complies with the requirements of the Act, the Energy Reorganization Act, and this chapter, he will issue a license. If the license is for a facility or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, or if it is to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, will inform the State, Indian Tribe, and local officials specified in § 2.104(e) of the issuance of the license.

* * * * *

3. Section 2.104(e) is revised to read as follows:

§ 2.104 Notice of hearing.

* * * * *

(e) The Secretary will give timely notice of the hearing to all parties and to other persons, if any, entitled by law to notice. The Secretary will transmit a notice of hearing on an application for a facility license or for a license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee or for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter to the Governor or other appropriate official of the State and to the chief executive of the municipality in which the facility is to be located or the activity is to be conducted or, if the facility is not to be located or the activity conducted within a municipality, to the chief executive of the county (or to the Tribal organization, if it is to be so located or conducted within an Indian reservation).

4. Section 2.105(a) is amended by adding new paragraphs (4) and (5), redesignating existing paragraph (4) as (6) amending the paragraph redesignated as (6), numbering the existing undesignated paragraph following renumbered paragraph (6) as (7) and adding a new final paragraph (8) to read as follows:

§ 2.105 Notice of proposed action.

(a) If a hearing is not required by the Act or this chapter, and if the Commission has not found that a hearing is in the public interest, it will, prior to acting thereon, cause to be published in the **Federal Register** a notice of proposed action with respect to an application for:

* * * * *

(4) A license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter;

(5) An amendment to a license specified in paragraph (a)(4) of this section, or an amendment to a construction authorization granted in proceedings on an application or such a license, when such amendment would authorize actions which may significantly affect the health and safety of the public; or

(6) Any other license or amendment as to which the Commission determines that an opportunity for a public hearing should be afforded.

(7) In the case of an application for an operating license for a facility of a type described in § 50.21(b) or § 50.22 of this chapter or a testing facility, a notice of opportunity for hearing shall be issued as soon as practicable after the application has been docketed.

(8) In the case of an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area, a notice of opportunity for hearing, as required by this paragraph, shall be published prior to Commission action authorizing receipt of such wastes; this requirement is in addition to the procedures set out in § 2.101(f)(8) and § 2.104 of this part, which provide for a hearing on the application prior to issuance of a construction authorization.

5. 10 CFR 2.105(e) is revised to read as follows:

* * * * *

(e) If no request for a hearing or petition for leave to intervene is filed within the time prescribed in the notice, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, may take the proposed action, inform the appropriate State and

local officials, and cause to be published in the **Federal Register** a notice of issuance of the license or other action. If a request for a hearing and/or a petition for leave to intervene is filed within the time prescribed in the notice, the Commission or an atomic safety and licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated atomic safety and licensing board will issue a notice of hearing or an appropriate order.

* * * * *

6. Section 2.106 is amended by adding a new paragraph (c) to read as follows:

§ 2.106 Notice of issuance.

* * * * *

(c) The Director of Nuclear Material Safety and Safeguards will also cause to be published in the **Federal Register** notice of, and will inform the State, local, and Tribal officials specified in § 2.104(e) of any action with respect to, an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter, or for the amendment to such license for which a notice of proposed action has been previously published.

7. Section 2.764 is amended by revising the caption, by adding a new paragraph (d), and by making conforming changes to paragraphs (a) and (b) to read as follows:

§ 2.764 Immediate effectiveness of certain initial decisions.[1]

(a) Except as provided in paragraphs (c) and (d) of this section, an initial decision * * *

(b) Except as provided in paragraphs (c) and (d) of this section, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards * * *

* * * * *

(d) An initial decision directing the issuance of a construction authorization or license under Part 60 of this chapter (relating to disposal of high-level radioactive wastes in geologic repositories) or any amendment to such an authorization or a license authorizing actions which may significantly affect the health and safety of the public, shall become effective only upon order of the Commission. The Director of Nuclear Material Safety and Safeguards shall not issue a construction authorization or a license under Part 60 of this chapter, or any amendment to such an authorization or license which may significantly affect the health and safety of the public until expressly authorized to do so by the Commission.

8. Section 2.780 is amended by adding a new paragraph (g) to read as follows:

§ 2.780 Ex parte communications.

* * * * *

(g) In the case of an application of for a license under Part 60 of this chapter (relating to disposal of high-level radioactive wastes in geologic repositories), this Part requires a proceeding on the record prior to the issuance of a construction authorization. Unless the Commission orders otherwise, the issuance of a construction authorization (or a final decision to deny a construction authorization) shall be deemed, for purposes of this section, to terminate all proceedings on the record then pending before the NRC with respect to such application.

PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS

9. Section 19.2 is amended by adding "60," following "35, 40," to read as follows:

§ 19.2 Scope.

The regulations in this part apply to all persons who receive, possess, use, or transfer material licensed by the Nuclear Regulatory Commission pursuant to the regulations in Parts 30 through 35, 40, 60, or 70 of this chapter, including persons licensed to operate a production or utilization facility pursuant to Part 50 of this chapter.

10. Section 19.3(d) is amended by adding "60," following "35, 40," to read as follows:

§ 19.3 Definitions.

As used in this part:

* * * * *

(d) "License" means a license issued under the regulations in Parts 30 through 35, 40, 60 or 70 of this chapter, including licenses to operate a production or utilization facility pursuant to Part 50 of this chapter. "Licensee" means the holder of such a license.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

11. Section 20.2 is amended by adding "60," following "35, 40," to read as follows:

§ 20.2 Scope.

The regulations in this part apply to all persons who receive, possess, use, or transfer material licensed pursuant to the regulations in Parts 30 through 35, 40, 60 or 70 of this chapter, including persons licensed to operate a production or utilization facility pursuant to Part 50 of this chapter.

12. Section 20.3(a)(9) is amended by adding "60," following "30, 40," to read as follows:

§ 20.3 Definitions.

(a) As used in this part:

* * * * *

(9) "License" means a license issued under the regulations in Part 30, 40, 60 or 70 of this chapter. "Licensee" means the holder of such license.

§ 20.301 General requirement.

13. Section 20.301(a) is amended by adding "60," following "30, 40," to read as follows:

No licensee shall dispose of licensed material except:

(a) By transfer to an authorized recipient as provided in the regulations in Part 30, 40, 60, or 70 of this chapter, whichever may be applicable; or

* * * * *

14. Section 20.408 is amended by deleting the word "or" following the phrase "of this chapter;" in paragraph (a)(3), redesignating paragraph (4), including the table and accompanying note 1, as paragraph (5) and adding a new paragraph (4). Amended paragraph (a)(3) and new paragraph (a)(4) read as follows:

§ 20.408 Reports of personnel monitoring on termination of employment or work.

(a) * * *

(3) Possess or use at any one time, for purposes of fuel processing, fabricating, or reprocessing, special nuclear material in a quantity exceeding 5,000 grams of contained uranium-235, uranium-233, or plutonium or any combination thereof pursuant to Part 70 of this chapter;

(4) Possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter; or

* * * * *

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

15. Section 21.2 is amended by inserting "60," after "35, 40," and also by inserting "60," after "40, 50," to read as follows:

§ 21.2 Scope.

The regulations in this part apply except as specifically provided otherwise in Parts 31, 34, 35, 40, 60 or 70 of this chapter, to each individual, partnership, corporation, or other entity licensed pursuant to the regulations in this chapter to possess, use, and/or

[1] The temporary suspension of § 2.764 (a) and (b) in certain proceedings and related matters is addressed in Appendix B to this part.

transfer within the United States source, byproduct and/or special nuclear materials, or to construct, manufacture, possess, own, operate and/or transfer within the United States, any production or utilization facility, and to each director (see § 21.3(f)) and responsible officer (see § 21.3(j)) of such a licensee. The regulations in this part apply also to each individual, corporation, partnership or other entity doing business within the United States, and each director and responsible officer of such organization, that constructs (see § 21.3(c)) a production or utilization facility licensed for manufacture, construction or operation (see § 21.3(h)) pursuant to Part 50 of this chapter or supplies (see § 21.3(l)) basic component (see § 21.3(a)) for a facility or activity licensed, other than for export, under Parts 30, 40, 50, 60, 70, or 71.

§ 21.3 Definitions. [Amended]

16. Section 21.3 is amended by adding the number "60" after "40, 50," wherever it appears in paragraphs (a), (a–1), and (k).

§ 21.21 Notification of failure to comply or existence of a defect.

17. Section 21.21(b)(1) is amended by adding the number "60" after "40, 50" wherever it appears in § 21.21(b)(1)(i) and (ii).

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

18. Section 30.11 is amended by adding a new paragraph (c).

§ 30.11 Specific exemptions.

* * * * *

(c) The DOE is exempt from the requirements of this part to the extent that its activities are subject to the requirements of Part 60 of this chapter.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

19. Section 40.14 is amended by adding a new paragraph (c).

§ 40.14 Specific exemptions.

* * * * *

(c) The DOE is exempt from the requirements of this part to the extent that its activities are subject to the requirements of Part 60 of this chapter.

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

20. Section 51.5(a) is amended by redesignating paragraph (11) as paragraph (12) and adding a new paragraph (11) to read as follows:

§ 51.5 Actions requiring preparation of environmental impact statements, negative declarations, environmental impact appraisals; actions excluded.

(a) * * *

(11) Issuance of a construction authorization for a geologic repository operations area pursuant to Part 60 of this chapter.

* * * * *

21. Section 51.5(b)(4) is amended by changing the periods at the end of (b)(4)(iii) and (b)(4)(iv) to semicolons and adding the word "and" after the new semicolon at the end of paragraph (b)(iv), adding a new paragraph (v); substituting subparagraph (v) for subparagraph (iv) in paragraph (5); inserting "60" following "40," and "50," in paragraph (6); and adding new paragraphs (10) and (11). New paragraphs (b)(4)(v) and (10) and (11) read as follows:

(b) * * *

(4) * * *

(v) The receipt and possession of high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter.

* * * * *

(10) Termination of a license for the possession of high-level radioactive waste at a geologic repository operations area at the request of the licensee.

(11) Issuance of a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter.

22. Section 51.5(d)(3) is amended by adding "60," following "40, 50," to read as follows:

* * * * *

(d) * * *

(3) Non-substantive and insignificant amendments (from the standpoint of environmental impact) of Parts 20, 30, 40, 50, 60, 70, 71, 73, 100, or 110 of this chapter; and

* * * * *

23. Section 51.40 is amended by revising paragraph (a) and by adding a new paragraph (d) to read as follows:

§ 51.40 Environmental reports.

(a) Except as provided in paragraphs (b), (c) and (d) of this section, applicants for permits, licenses, and orders, and amendments thereto and renewals thereof, covered by § 51.5(a) shall submit to the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, 150 copies of an environmental report which discusses the matters described in § 51.20. Petitioners for rule making covered by § 51.5(a) shall submit to the Director of Standards Development fifty (50) copies of an environmental report which discusses the matters described in § 51.20.

* * * * *

(d) The DOE, as an applicant for a license to receive and possess radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter, shall submit at the time of its application or in advance, and at the time of amendments, in the manner provided in § 60.22 of this chapter, environmental reports which discuss the matters described in § 51.20. The discussion of alternatives shall include site characterization data for a number of sites in appropriate geologic media so as to aid the Commission in making a comparative evaluation as a basis for arriving at a reasoned decision under NEPA. Such characterization data shall include results of appropriate in situ testing at repository depth unless the Commission finds with respect to a particular site that such testing is not required. The Commission considers the characterization of three sites representing two geologic media at least one of which is not salt to be the minimum necessary to satisfy the requirements of NEPA. (However, in light of the significance of the decision selecting a site for a repository, the Commission fully expects the DOE to submit a wider range of alternatives than the minimum required here.)

24. Section 51.41 is amended to read as follows:

§ 51.41 Administrative procedures.

Except as the context may otherwise require, procedures and measures similar to those described in §§ 51.22–51.26 will be followed in proceedings for the issuance of materials licenses and other actions covered by § 51.5(a) but not covered by § 51.20 or 51.21. The procedures followed with respect to materials licenses will reflect the fact that, unlike the licensing of production and utilization facilities, the licensing of materials does not require separate authorizations for construction and operation. In the case of an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter, however, the environmental impact statement required by § 51.5(a) shall be prepared and circulated prior to the issuance of a construction authorization; the environmental impact statement shall be supplemented prior to issuance

of a license to take account of any substantial changes in the activities proposed to be carried out or significant new information regarding the environmental impacts of the proposed activities.

25. A new Part 60 is added to read as follows:

PART 60—DISPOSAL OF HIGH LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

Subpart A—General Provisions

Sec.

Subpart B—Licenses

Preapplication Review

License Applications

Construction Authorization

License Issuance and Amendment

Decommissioning

Subpart C—Participation by State Governments and Indian Tribes

Subpart D—Records, Reports, Tests, and Inspections

Authority: Secs. 51, 53, 62, 63, 65, 81, 161b., f., i., o., p., 182, 183, Pub. L. 83–703, as amended, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); Secs. 202, 206, Pub. L. 93–438, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); Sec. 14, Pub. L. 95–601 (42 U.S.C. 2021a); Sec 102(2)(c), Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332).

For the purposes of Sec. 223, 68 Stat. 958, as amended, 42 U.S.C. 2273, §§ 60.71 to 60.73 are issued under Sec. 161o., 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Subpart A—General Provisions

§ 60.1 Purpose and scope.

This part prescribes rules governing the licensing of the U.S. Department of Energy to receive and possess source, special nuclear, and byproduct material at a geologic repository operations area. This part does not apply to any activity licensed under another part of this chapter.

§ 60.2 Definitions.

As used in this part:

(a) "Candidate area" means a geologic and hydrologic system within which a geologic repository may be located.

(b) "Commencement of construction" means clearing of land, surface or subsurface excavation, or other substantial action that would adversely affect the environment of a site, but does not include changes desirable for the temporary use of the land for public recreational uses, site characterization activities, other preconstruction monitoring and investigation necessary to establish background information related to the suitability of a site or to the protection of environmental values, or procurement or manufacture of components of the geologic repository operations area.

(c) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(d) "DOE" means the U.S. Department of Energy or its duly authorized representatives.

(e) "Decommissioning", or "permanent closure", means final backfilling of subsurface facilities, sealing of shafts, and decontamination and dismantlement of surface facilities.

(f) "Disposal" means the isolation of radioactive wastes frm the biosphere.

(g) "Director" means the Director of the Nuclear Regulatory Commission's Office of Nuclear Material Safety and Safeguards.

(h) "Geologic repository" means a system which is intended to be used for, or may be used for, the disposal of radioactive wastes in excavated geologic formations. A geologic repository includes (1) the geologic repository operations area and (2) all surface and subsurface areas where natural events or activities of man may change the extent to which radioactive waste are effectively isolated from the biosphere.

(i) "Geologic repository operations area" means an HLW facility that is part of a geologic repository, including both surface and subsurface areas, where waste handling activities are conducted.

(j) "High-level radioactive waste" or "HLW" means (1) irradiated reactor fuel, (2) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel, and (3) solids into which such liquid wastes have been converted.

(k) "HLW facility" means a facility subject to the licensing and related regulatory authority of the Commission pursuant to Sections 202(3) and 202(4) of the Energy Reorganization Act of 1974 (88 Stat 1244).[5]

(l) "Indian Tribe" means an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act (Public Law (93–638).

(m) "Important to safety," with reference to structures, systems, and components, means those structures, systems, and components that provide reasonable assurance that radioactive waste can be received, handled, and stored without undue risk to the health and safety of the public.

(n) "Public Document Room" means the place at 1717 H Street NW., Washington, D.C., at which records of the Commission will ordinarily be made available for public inspection and any other place, the location of which has been published in the **Federal Register**, at which public records of the Commission pertaining to a particular geologic repository are made available for public inspection.

(o) "Radioactive waste" means HLW and any other radioactive materials other than HLW that are received for emplacement in a geologic repository.

(p) "Site characterization" means the program of exploration and research, both in the laboratory and in the field, undertaken to establish the geologic conditions and the ranges of those parameters of a particular site relevant to the procedures under this part. Site characterization includes borings, surface excavations, excavation of exploratory shafts, limited subsurface

[5] These are DOE "facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such act [the Atomic Energy Act]" and "Retrievable Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive wastes generated by [DOE], which are not used for, or are part of, research and development activities."

lateral excavations and borings, and in situ testing at depth needed to determine the suitability of the site for a geologic repository, but does not include preliminary borings and geophysical testing needed to decide whether site characterization should be undertaken.

(q) "Tribal organization" means a Tribal organization as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638).

§ 60.3 License required.

(a) DOE shall not receive or possess source, special nuclear, or byproduct material at a geologic repository operations area except as authorized by a license issued by the Commission pursuant to this part.

(b) DOE shall not commence construction of a geologic repository operations area unless it has filed an application with the Commission and has obtained construction authorization as provided in this part. Failure to comply with this requirement shall be grounds for denial of a license.

§ 60.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be addressed to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Communications, reports, and applications may be delivered in person at the Commission's offices at 1717 H Street NW, Washington, D.C., or 7915 Eastern Avenue, Silver Spring, Maryland.

§ 60.5 Interpretations.

Except as specifically authorized by the Commission, in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be considered binding upon the Commission.

§ 60.6 Exemptions.

The Commission may, upon application by DOE, any interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

§ 60.7 License not required for certain preliminary activities.

The requirement for a license set forth in § 60.3(a) of this part is not applicable to the extent that DOE receives and possesses source, special nuclear, and byproduct material at a geologic repository:

(a) For purposes of site characterization; or

(b) For use, during site characterization or construction, as components of radiographic, radiation monitoring, or similar equipment or instrumentation.

Subpart B—Licenses

Preapplication Review

§ 60.10 Site characterization.

(a) Prior to submittal of an application for a license to be issued under this part the DOE shall conduct a program of site characterization with respect to the site to be described in such application.

(b) Unless the Commission determines with respect to the site described in the application that it is not necessary, site characterization shall include a program of in situ exploration and testing at the depths that wastes would be emplaced.

(c) As provided in § 51.40 of this chapter, DOE is also required to conduct a program of site characterization, including in situ testing at depth, with respect to alternative sites.

§ 60.11 Site characterization report.

(a) As early as possible after commencement of planning for a particular geologic repository operations area, and prior to site characterization, the DOE shall submit to the Director a Site Characterization Report. The report shall include[6] (1) a description of the site to be characterized; (2) the criteria used to arrive at the candidate area; (3) the method by which the site was selected for site characterization; (4) identification and location of alternative media and sites at which DOE intends to conduct site characterization and for which DOE anticipates submitting subsequent Site Characterization Reports; (5) a description of the decision process by which the site was selected for characterization, including the means used to obtain public, Indian tribal and State views during selection; (6) a description of the site characterization program including (i) the extent of planned excavation and plans for in situ testing, (ii) a conceptual design of a repository appropriate to the named site in sufficient detail to allow assessment of the site characterization program with respect to investigation activities which address the ability of the site to host a repository and isolate radioactive waste, or which may affect such ability, and (iii) provisions to control any adverse, safety-related effects from site characterization, including appropriate quality assurance programs; (7) a description of the quality assurance program to be applied to data collection; and (8) any issues related to the site selection, alternative candidate areas or sites, or design of the geologic repository operations area which the DOE wishes the Commission to review. Also included shall be a description of the research and development activities being conducted by DOE which deal with the waste form and packaging which may be considered appropriate for the site to be characterized, including research planned or underway to evaluate the performance of such waste forms and packaging.

(b) The Director shall cause to be published in the **Federal Register** a notice that the information submitted under paragraph (a) of this section has been received and that a staff review of that information has begun. The notice shall identify the site selected for site characterization and alternate areas being considered by DOE and shall advise that consultation may be requested by State and local governments and Tribal organizations in accordance with Subpart C of this part.

(c) The Director shall make available a copy of the above information at the Public Document Room. The Director also shall transmit copies and the published notice of receipt thereof to the Governor and legislature of the State and to the chief executive of the municipality in which a site to be characterized is located (or if it is not located within a municipality, then to the chief executive of the county, or to the Tribal organization if it is to be located within an Indian reservation) and to the Governors of any contiguous States.

(d) The Director shall prepare a draft site characterization analysis which shall discuss the items cited in paragraph (a) of this section. The Director shall publish a notice of availability of the draft site characterization analysis and a request for comment in the **Federal Register.** Copies shall be made available at the Public Document Room. The Director shall also transmit copies to the Governor and legislature of the State and the chief executive of the municipality in which a site to be characterized is located (or if it is not located within a municipality, then to the chief executive of the county, or to

[6] To the extent that the information indicated in items 2 through 5 appears in an Environmental Impact Statement prepared by DOE for site characterization at the named site, it may be incorporated into DOE's Site Characterization Report by reference.

the Tribal organization if it is to be located within an Indian reservation) and to the Governors of any contiguous States.

(e) A reasonable period, not less than 90 days, shall be allowed for comment on the draft site characterization analysis. The Director shall then prepare a final site characterization analysis which shall take into account comments received and any additional information acquired during the comment period. Included in the final site characterization analysis shall be either an opinion by the Director that he has no objection to the DOE's site characterization program, if such an opinion is appropriate, or specific objections of the Director to DOE's proceeding with characterization of the named site. In addition, the Director may make specific recommendations to DOE on the matters pertinent to this section. A copy of the final site characterization analysis and the Director's opinion will be transmitted to DOE.

(f) Neither issuance of a final site characterization analysis nor the opinion by the Director shall constitute a commitment to issue any authorization or license or in any way affect the authority of the Commission, the Atomic Safety and Licensing Appeal Board, Atomic Safety and Licensing Boards, other presiding officers, or the Director, in any proceeding under Subpart G of Part 2 of this chapter. If DOE prepares an Environmental Impact Statement with respect to site characterization activities proposed for a particular site, it should consider NRC's site characterization analyses before publishing its final Environmental Impact Statement with respect to site characterization activities proposed for that particular site.

(g) During site characterization, DOE shall inform the Director by semiannual report and by other reports on any topic related to site characterization if requested by the Director, of the progress of the site characterization and waste form and packaging research and development. The semiannual reports should include the results of site characterization studies, the identification of new issues, plans for additional studies to resolve new issues, elimination of planned studies no longer necessary, identification of decision points reached and modification to schedules were appropriate. Also reported should be the DOE's progress in developing the design of a geologic repository operations area appropriate for the site being characterized, noting when key design parameters or features which depend upon the results of site characterization will be established. During this time, NRC staff shall be permitted to visit and inspect the site and observe excavations, borings, and in situ tests as they are done.

(h) The Director may comment at any time in writing to DOE, expressing current views on any aspect of site characterization. Comments received from States in accordance with § 60.61 shall be considered by the Director in formulating his views. All correspondence between DOE and the NCR including the reports cited in paragraph (g) shall be placed in the Public Document Room.

(i) The activities described in paragraphs (a) through (h) above constitute informal conference between a prospective applicant and the staff, as described in § 2.101(a)(1) of this chapter, and are not part of a proceeding under the Atomic Energy Act of 1954, as amended.

License Applications

§ 60.21 Content of application.

(a) An application shall consist of general information and a Safety Analysis Report. An environmental report shall be prepared in accordance with Part 51 of this chapter and shall accompany the application. Any Restricted Data or National Security Information shall be separated from unclassified information.

(b) The general information shall include:

(1) A general description of the proposed geologic repository identifying the location of the geologic repository operations area, the general character of the proposed activities, and the basis for the exercise of licensing authority by the Commission.

(2) Proposed schedules for construction, receipt of waste, and emplacement of wastes at the proposed geologic repository operations area.

(3) A certification that DOE will provide at the geologic repository operations area such safeguards as it requires at comparable surface facilities (of DOE) to promote the common defense and security.

(4) A description of the physical security plan for protection against radiological sabotage. Since the radiation hazards associated with high-level wastes make them inherently unattractive as a target for theft or diversion, no detailed information need be submitted on protection against theft or diversion.

(5) A description of site characterization work actually conducted by DOE at all sites considered in the application and, as appropriate, explanations of why such work differed from the description of the site characterization program described in the Site Characterization Report for each site.

(c) The Safety Analysis Report shall include:

(1) A description and analysis of the site at which the proposed geologic repository operations area is to be located with appropriate attention to those features that might affect facility design and performance. The assessment shall contain an analysis of the geology, geophysics, hydrology, geochemistry, and meteorology of the site and the major design structures, systems, and components, both surface and sub-surface, that bear significantly on the suitablity of the geologic repository for disposal of radioactive waste. It will be assumed that operations at the geologic repository operations area will be carried out at the maximum capacity and rate of receipt of radioactive waste stated in the application.

(2) A description and discussion of the design, both surface and subsurface, of the geologic repository operations area including: (i) the principal design criteria and their relationship to any general performance objectives promulgated by the Commission, (ii) the design bases and the relation of the design bases to the principal design criteria, (iii) information relative to materials of construction (including geologic media, general arrangement, and approximate dimensions), and (iv) codes and standards that DOE proposes to apply to the design and construction of the geologic repository operations area.

(3) A description and analysis of the design and performance requirements for structures, systems, and components of the geologic repository which are important to safety. The analysis and evaluation shall consider (i) the margins of safety under normal conditions and under conditions that may result from anticipated operational occurrences, including those of natural origin; (ii) the adequacy of structures, systems, and components provided for the prevention of accidents and mitigation of the consequences of accidents, including those caused by natural phenomena; and (iii) the effectiveness of engineered and natural barriers, including barriers that may not be themselves a part of the geologic repository operations area, against the release of radioactive material to the environment.

(4) A description of the quality assurance program to be applied to the design, fabrication, inspection, construction, testing, and operation of

the structures, systems, and components of the geologic repository operations area important to safety.[7]

(5) A description of the kind, amount, and specifications of the radioactive material proposed to be received and possessed at the geologic repository operations area.

(6) An identification and justification for the selection of those variables, conditions, or other items which are determined to be probable subjects of license specifications. Special attention shall be given to those items that may significantly influence the final design.

(7) A description of the program for control and monitoring of radioactive effluents and occupational radiation exposures to maintain such effluents and exposures in accordance with the requirements of Part 20 of this chapter.

(8) A description of the controls that the applicant will apply to restrict access and to regulate land use at the geologic repository operations area and adjacent areas.

(9) Plans for coping with radiological emergencies at any time prior to completion of decommissioning the geologic repository operations area.

(10) A description of the nuclear material control and accounting program.

(11) A description of design considerations that are intended to facilitate decommissioning of the facility.

(12) A description of plans for retrieval and alternate storage of the radioactive wastes should the geologic repository prove to be unsuitable for disposal of radioactive wastes.

(13) An identification of the natural resources at the site, the exploitation of which could affect the ability of the site to isolate radioactive wastes.

(14) An identification of those structures, systems, and components of the geologic repository, both surface and subsurface, which require research and development to confirm the adequacy of design. For systems, structures, and components important to safety, the DOE shall provide a detailed description of the programs designed to resolve safety questions, including a schedule indicating when these questions will be resolved.

(15) The following information concerning activities at the geologic repository operations area:

(i) The organizational structure of DOE, offsite and onsite, including a description of any delegations of authority and assignments of responsibilities, whether in the form of regulations, administrative directives, contract provisions, or otherwise.

(ii) The quality assurance program to be used to ensure safety.

(iii) Identification of key positions which are assigned responsibility for safety at and operation of the geologic repository operations area.

(iv) Personnel qualifications and training requirements.

(v) Plans for startup activities and startup testing.

(vi) Plans for conduct of normal activities, including maintenance, surveillance, and periodic testing of structures, systems, and components of the geologic repository operations area.

(vii) Plans for decommissioning.

(viii) Plans for any uses of the geologic repository operations area for purposes other than disposal of radioactive wastes, with an analysis of the effects, if any, that such uses may have upon the operation of the structures, systems, and components important to safety.

§ 60.22 Filing and distribution of application.

(a) An application for a license to receive and possess source, special nuclear, or byproduct material in a geologic repository at a site which has been characterized, and an accompanying environmental report, and any amendments thereto, shall be filed in triplicate with the Director and shall be signed by the Secretary of Energy or his authorized representative.

(b) Each portion of such application and environmental report and any amendments shall be accompanied by 30 additional copies. Another 120 copies shall be retained by DOE for distribution in accordance with written instructions from the Director or the Director's designee.

(c) DOE shall, upon notification of the appointment of an Atomic Safety and Licensing Board, update the application and environmental report, eliminating all superseded information, and serve them as directed by the Board. In addition, at that time DOE shall serve one such copy on the Atomic Safety and Licensing Appeal Panel. Any subsequent amendments to the application or environmental report shall be served in the same manner.

(d) At the time of filing of an application and environmental report, and any amendments thereto, one copy shall be made available in an appropriate location near the site of the proposed geologic repository (which shall be a public document room, if one has been established) for inspection by the public and updated as amendments to the application or environmental report are made. An updated copy shall be produced at any public hearing on the application for use by any parties to the proceeding.

(e) The DOE shall certify that the updated copies of the application and environmental report, as referred to in paragraphs (c) and (d), contain the current contents of such documents submitted in accordance with the requirements of this part.

§ 60.23 Elimination of repetition.

In its application, environmental report, or Site Characterization Report, the DOE may incorporate by reference information contained in previous applications, statements, or reports filed with the Commission: PROVIDED, that such references are clear and specific and that copies of the information so incorporated are available in the public document room located near the site of the proposed geologic repository.

§ 60.24 Updating of application and environmental report.

(a) The application and environmental report shall be as complete as possible in the light of information that is reasonably available at the time of docketing.

(b) The DOE shall update its application in a timely manner so as to permit the Commission to review, prior to issuance of a license:

(1) Additional geologic, geophysical, geochemical, hydrologic, meteorologic and other data obtained during construction.

(2) Conformance of construction of structures, systems, and components with the design.

(3) Results of research programs carried out to confirm the adequacy of designs.

(4) Other information bearing on the Commission's issuance of a license that was not available at the time a construction authorization was issued.

(c) The DOE shall update its environmental report in a timely manner so as to permit the Commission to review, prior to issuance of a license, the environmental impacts of any substantial changes in the activities proposed to be carried out or any significant new information regarding the environmental impacts of activities previously proposed.

Construction Authorization

§ 60.31 Construction authorization.

Upon review and consideration of an application and environmental report submitted under this part, the Commission may authorize construction if it determines:

[7] The criteria in Appendix B of Part 50 of this chapter will be used by the Commission in determining the adequacy of the quality assurance program.

(a) *Safety.* That there is reasonable assurance that the types and amounts of radioactive materials described in the application can be received, possessed, and disposed of in a repository of the design proposed without unreasonable risk to the health and safety of the public. In arriving at this determination, the Commission shall consider whether:

(1) The DOE has described the proposed geologic repository including but not limited to (i) the geologic, geophysical, geochemical and hydrologic characteristics of the site; (ii) the kinds and quantities of radioactive waste to be received, possessed, stored, and disposed of in the geologic repository; (iii) the principal architectural and engineering criteria for the design of the geologic repository operations area; (iv) construction procedures which may affect the capability of the geologic repository to serve its intended function; and (v) features or components incorporated in the design for the protection of the health and safety of the public.

(2) The site and design comply with the criteria contained in Subparts E and F of this part.

(3) The DOE's quality assurance program complies with the requirements of Subpart G of this part.

(4) The DOE's personnel training program complies with the criteria contained in Subpart H of this part.

(5) The DOE's emergency plan complies with the criteria contained in Subpart I of this part.

(6) The DOE's proposed operating procedures to protect health and to minimize danger to life or property are adequate.

(b) *Common defense and security.* That there is reasonable assurance that the activities proposed in the application will not be inimical to the common defense and security. A DOE certification that it will provide at the geologic repository operations area such safeguards as it requires at comparable DOE surface facilities to promote the common defense and security will constitute a rebuttable presumption of noninimicality to the common defense and security.

(c) *Environmental.* That, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, the action called for is issuance of the construction authorization, with any appropriate conditions to protect environmental values.

§ 60.32 Conditions of construction authorization.

(a) A construction authorization shall include such conditions as the Commission finds to be necessary to protect the health and safety of the public, the common defense and security, or environmental values.

(b) The Commission will incorporate in the construction authorization provisions requiring the DOE to furnish periodic or special reports regarding: (1) progress of construction, (2) any site data obtained during construction which are not within the predicted limits upon which the facility design was based, (3) any deficiencies in design and construction which, if uncorrected, could adversely affect safety at any future time, and (4) results of research and development programs being conducted to resolve safety questions.

(c) The construction authorization will include restrictions on subsequent changes to the features of the respository and the procedures authorized. These restrictions will fall into three categories of descending importance to public health and safety as follows: (1) those features and procedures which may not be changed without (i) 60 days prior notice to the Commission, (ii) 30 days notice of opportunity for a prior hearing, and (iii) prior Commission approval; (2) those features and procedures which may not be changed without (i) 60 days prior notice to the Commission, and (ii) prior Commission approval; and (3) those features and procedures which may not be changed without 60 days prior notice to the Commission. Features and procedures falling in paragraph (c)(3) of this section may not be changed without prior Commission approval if the Commission, after having received the required notice, so orders.

(d) A construction authorization shall be subject to the limitation that a license to receive and possess source, special nuclear, or byproduct material at the geologic repository operations area shall not be issued by the Commission until (1) the DOE has updated its application as specified in § 60.24, and (2) the Commission has made the findings stated in § 60.41.

§ 60.33 Amendment of construction authorization.

(a) An application for amendment of a construction authorization shall be filed with the Commission fully describing any changes desired and following as far as applicable the format prescribed in § 60.21.

(b) In determining whether an amendment of a construction authorization will be approved, the Commission will be guided by the considerations which govern the issuance of the initial construction authorization, to the extent applicable.

License Issuance and Amendment

§ 60.41 Standards for issuance of a license.

A license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area may be issued by the Commission upon finding that:

(a) Construction of the geologic repository operations area has been substantially completed in conformity with the application as amended, the provisions of the Atomic Energy Act, and the rules and regulations of the Commission. Construction may be deemed to be substantially complete for the purposes of this paragraph if the construction of (1) surface and interconnecting structures, systems, and components, and (2) any underground storage space required for initial operation are substantially complete.

(b) The activities to be conducted at the geologic repository operations area will be in conformity with the application as amended, the provisions of the Atomic Energy Act and the Energy Reorganization Act, and the rules and regulations of the Commission.

(c) The issuance of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public. A DOE certification that it will provide at the geologic repository operations area such safeguards as it requires at comparable DOE facilities to promote the common defense and security, will constitute a rebuttable presumption of non-inimicality to the common defense and security.

(d) All applicable requirements of Part 51 have been satisfied.

§ 60.42 Conditions of license.

(a) A license issued pursuant to this part shall include such conditions, including license specifications, as the Commission finds to be necessary to protect the health and safety of the public, the common defense and security, and environmental values.

(b) Whether stated therein or not, the following shall be deemed conditions in every license issued:

(1) The license shall be subject to revocation, suspension, modification, or amendment for cause as provided by the Atomic Energy Act and the Commission's regulations.

(2) The DOE shall at any time while the license is in effect, upon written request of the Commission, submit

written statements to enable the Commission to determine whether or not the license should be modified, suspended or revoked.

(3) The license shall be subject to the provisions of the Atomic Energy Act now or hereafter in effect and to all rules, regulations, and orders of the Commission. The terms and conditions of the license shall be subject to amendment, revision, or modification, by reason of amendments to or by reason of rules, regulations, and orders issued in accordance with the terms of the Atomic Energy Act.

(c) Each license shall be deemed to contain the provisions set forth in Section 183 b-d, inclusive, of the Atomic Energy Act, whether or not these provisions are expressly set forth in the license.

§ 60.43 License specifications.

(a) A license issued under this part shall include license conditions derived from the analyses and evaluations included in the application, including amendments made before a license is issued, together with such additional conditions as the Commission finds appropriate.

(b) License conditions shall include items in the following categories:

(1) Restrictions as to the physical and chemical form and radioisotopic content of radioactive waste.

(2) Restrictions as to size, shape, and materials and methods of construction of radioactive waste packaging.

(3) Restrictions as to the amount of waste permitted per unit volume of storage space considering the physical characteristics of both the waste and the storage medium.

(4) Requirements relating to test, calibration, or inspection to assure that the foregoing restrictions are observed.

(5) Controls to be applied to restrict access and to avoid disturbance to the geologic repository operations area and adjacent areas.

(6) Administrative controls, which are the provisions relating to organization and management, procedures, recordkeeping, review and audit, and reporting necessary to assure that activities at the facility are conducted in a safe manner and in conformity with the other license specifications.

§ 60.44 Changes, tests, and experiments.

(a)(1) Following authorization to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area, the DOE may (i) make changes in the geologic repository operations area as described in the application, (ii) make changes in the procedures as described in the application, and (iii) conduct tests or experiments not described in the application, without prior Commission approval, provided the change, test, or experiment involves neither a change in the license conditions incorporated in the license nor an unreviewed safety question.

(2) A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question if (i) the likelihood of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the application is increased, (ii) the possibility of an accident or malfunction of a different type than any previously evaluated in the application is created, or (iii) the margin of safety as defined in the basis for any license condition is reduced.

(b) The DOE shall maintain records of changes in the geologic repository operations area and of changes in procedures made pursuant to this section, to the extent that such changes constitute changes in the geologic repository operations area or procedures as described in the application. Records of tests and experiments carried out pursuant to paragraph (a) of this section shall also be maintained. These records shall include a written safety evaluation which provides the basis for the determination that the change, test, or experiment does not involve an unreviewed safety question. The DOE shall prepare annually, or at such shorter intervals as may be specified in the license, a report containing a brief description of such changes, tests, and experiments, including a summary of the safety evaluation of each. The DOE shall furnish the report to the appropriate NRC Regional Office shown in Appendix D of Part 20 of this chapter with a copy to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Any report submitted pursuant to this paragraph shall be made a part of the public record of the licensing proceedings.

§ 60.45 Amendment of license.

(a) An application for amendment of a license may be filed with the Commission fully describing the changes desired and following as far as applicable the format prescribed for license applications.

(b) In determining whether an amendment of a license will be approved, the Commission will be guided by the considerations that govern the issuance of the initial license, to the extent applicable.

§ 60.46 Particular activities requiring license amendment.

(a) Unless expressly authorized in the license, an amendment of the license shall be required with respect to any of the following activities:

(1) Any action which would make emplaced high-level radioactive waste irretrievable or which would substantially increase the difficulty of retrieving such emplaced waste.

(2) Dismantling of structures.

(3) Removal or reduction of controls applied to restrict access to or to avoid disturbance of the geologic repository operations area or adjacent areas.

(4) Destruction or disposal of records required to be maintained under the provisions of this part.

(5) Any substantial change to the design or operating procedures from that specified in the license.

(6) Decommissioning.

(b) An application for such an amendment shall be filed, and shall be reviewed, in accordance with the provisions of § 60.45.

Decommissioning

§ 60.51 License amendment to decommission.

(a) The DOE shall submit an application to amend the license prior to decommissioning. The application shall consist of an update of the license application and environmental report submitted under §§ 60.21 and 60.22, including:

(1) A description of the program for post-decommissioning monitoring of the geologic repository.

(2) A detailed description of the measures to be employed—such as land use controls, construction of monuments, and preservation of records—to regulate or prevent activities that could impair the long-term isolation of emplaced waste within the geologic repository and to assure that relevant information will be preserved for the use of future generations.

(3) Geologic, geophysical, geochemical, hydrologic, and other site data that are obtained during the operational period pertinent to the long-term isolation of emplaced radioactive wastes.

(4) The results of tests, experiments, and any other analyses relating to backfill of excavated areas, shaft sealing, waste interaction with emplacement media, and any other tests, experiments, or analyses pertinent to the long-term isolation of emplaced wastes within the geologic repository.

(5) Any substantial revision of plans for decommissioning.

(6) Other information bearing upon decommission that was not available at the time a license was issued.

(b) The DOE shall update its environmental report in a timely manner so as to permit the Commission to review, prior to issuance of an amendment, substantial changes in the decommissioning activities proposed to be carried out or significant new information regarding the environment impacts of such decommissioning.

§ 60.52 Termination of license.

(a) Following decommissioning, the DOE may apply for an amendment to terminate the license.

(b) Such application shall be filed, and will be reviewed, in accordance with the provisions of § 60.45 and this section.

(c) A license shall be terminated only when the Commission finds with respect to the geologic repository:

(1) That the final disposition of radioactive wastes has been made in conformance with the DOE's plan, as amended and approved as part of the license.

(2) That the final state of the geologic repository operations area site conforms to the DOE's decommissioning plans, as amended and approved as part of the license.

(3) That the termination of the license is authorized by law, including Sections 57, 62, and 81 of the Atomic Energy Act, as amended.

Subpart C—Participation by State Governments and Indian Tribes

§ 60.61 Site review.

(a) Upon publication in the **Federal Register** of a notice that the DOE has selected a site for site characterization, in accordance with § 60.11(b), and upon the request of a State, the Director shall make available NRC staff to consult with representatives of State, Indian tribal and local governments to keep them informed of the Director's view on the progress of site characterization and to notify them of any subsequent meetings or further consultations with the DOE.

(b) Requests for consultation shall be made in writing to the Director.

(c) The Director also shall respond to written questions or comments from the State, Indian tribal and local governments as appropriate, on the information submitted by the DOE in accordance with § 60.11 of this part. Copies of such questions or comments and their responses shall be made available in the Public Document Room and shall be transmitted to the DOE.

§ 60.62 Filing of proposals for State participation.

(a) Consultation under § 60.61 may include, among other things, a review of applicable NRC regulations, licensing procedures, potential schedules, and the type and scope of State activities in the license review permitted by law. In addition, staff shall be made available to cooperate with the State in developing proposals for participation by the State.

(b) States potentially affected by siting of a geologic repository operations area at a site that has been selected for characterization may submit to the Director a proposal for State participation in the review of the Site Characterization Report and/or license application. A State's proposal to participate may be submitted at any time prior to docketing of an application or up to 120 days thereafter.

(c) Proposals for participation in the review shall be signed by the Governor of the State submitting the proposal and shall at a minimum contain the following information:

(1) A general description of how the State wishes to participate in the review, specifically identifying those issues which it wishes to review.

(2) A description of material and information which the State plans to submit to the NRC staff for consideration in the review. A tentative schedule referencing steps in the review and calendar dates for planned submittals should be included.

(3) A description including funding estimates of any work that the State proposes to perform for the Commission, under contract, in support of the review.

(4) A description of State plans to facilitate local government and citizen participation.

(5) A preliminary estimate of the types and extent of impacts which the State expects should a geologic repository be located at the site in question.

(d) If the State desires educational or information services (seminars, public meetings) or other actions on the part of NRC, such as establishing additional public document rooms or employment or exchange of State personnel under the Intergovernmental Personnel Act, these shall be included with the proposal.

§ 60.63 Approval of proposals.

(a) The Director shall arrange for a meeting between the representatives of the State and the NRC staff to discuss any proposal submitted under § 60.62(b), with a view to identifying any modifications that may contribute to the effective participation by the State.

(b) Subject to the availability of funds, the Director shall approve all or any part of a proposal, as it may be modified through the meeting described above, if it is determined that:

(1) The proposed activities are suitable in light of the type and magnitude of impacts which the State may bear, and

(2) The proposed activities (i) will enhance communications between NRC and the State, (ii) will contribute productively to the license review, and (iii) are authorized by law.

(c) The decision of the Director shall be transmitted in writing to the Governor of the originating State. A copy of the decision shall be made available at the Public Document Room. If all or any part of a proposal is rejected, the decision shall state the reason for the rejection.

(d) A copy of all proposals received shall be made available at the Public Document Room.

§ 60.64 Participation by Indian tribes.

(a) Any Indian tribe which is potentially affected by siting of a geologic repository operations area at a site that has been selected for characterization may:

(1) Request consultation, as provided with respect to States under § 60.61.

(2) Submit proposals for participation, as provided with respect to States under § 60.62, except that such proposals shall be signed by the chief executive (or other specifically authorized representative) of the Tribal organization.

(b) The Director shall respond to such requests or proposals in the manner provided in this subpart, except that decisions under § 60.63 shall be transmitted in writing to the chief executive (or other specifically authorized representative) of the Tribal organization.

(c) Any request or proposal under this section shall be accompanied by such documentation as may be needed to determine the eligibility of the Indian tribe or the specific authority of its representatives.

§ 60.65 Coordination.

The Director may take into account the desirability of avoiding duplication of effort in taking action on multiple proposals submitted pursuant to the provisions of this Subpart to the extent this can be accomplished without substantial prejudice to the parties concerned.

Subpart D—Records, Reports, Tests, and Inspections

§ 60.71 Records and reports.

(a) The DOE shall maintain such records and make such reports in connection with the licensed activity as may be required by the conditions of the license or by rules, regulations, and orders of the Commission as authorized by the Atomic Energy Act and the Energy Reorganization Act.

(b) Records of the receipt, handling, and disposition of radioactive waste at a geologic repository operations area shall contain sufficient information to provide a complete history of the movement of the waste from the shipper through all phases of storage and disposal.

(c) The DOE shall promptly notify the Commission of each deficiency found in the site characteristics, and design and construction of the geologic repository operations area which, were it to remain uncorrected, could (1) be a substantial safety hazard, (2) represent a significant deviation from the design criteria and design bases stated in the application, or (3) represent a deviation from the conditions stated in the terms of a construction authorization or the license, including license specifications. The notification shall be in the form of a written report, copies of which shall be sent to the Director and to the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix D of Part 20 of this chapter.

§ 60.72 Tests.

The DOE shall perform, or permit the Commission to perform, such tests as the Commission deems appropriate or necessary for the administration of the regulations in this part. These may include tests of (a) radioactive waste, (b) the geologic repository including its structures, systems, and components, (c) radiation detection and monitoring instruments, and (d) other equipment and devices used in connection with the receipt, handling, or storage of radioactive waste.

§ 60.73 Inspections.

(a) The DOE shall allow the Commission to inspect the premises of the geologic repository operations area and adjacent areas to which the DOE has rights of access.

(b) The DOE shall make available to the Commission for inspection, upon reasonable notice, records kept by the DOE pertaining to activities under this part.

(c)(1) The DOE shall upon request by the Director, Office of Inspection and Enforcement, provide rent-free office space for the exclusive use of the Commission inspection personnel. Heat, air conditioning, light, electrical outlets and janitorial services shall be furnished by DOE. The office shall be convenient to and have full access to the facility and shall provide the inspector both visual and acoustic privacy.

(2) The space provided shall be adequate to accommodate a full-time inspector, a part-time secretary and transient NRC personnel and will be generally commensurate with other office facilities at the site. A space of 250 square feet either within the site's office complex or in an office trailer or other onsite space is suggested as a guide. For sites containing multiple facilities, additional space may be requested to accommodate additional full time inspector(s). The office space that is provided shall be subject to the approval of the Director, Office of Inspection and Enforcement. All furniture, supplies and communication equipment will be furnished by the Commission.

(3) DOE shall afford any NRC resident inspector assigned to that site, or other NRC inspectors identified by the Regional Director as likely to inspect the facility, immediate unfettered access, eqivalent to access provided regular employees, following proper identification and compliance with applicable access control measures for security, radiological protection and personal safety.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

26. Section 70.14 is amended by adding a paragraph (c).

§ 70.14 Specific exemptions.

* * * * *

(c) The DOE is exempt from the requirements of the regulations in this part to the extent that its activities are subject to the requirements of Part 60 of the chapter.

(Amendments to all parts issued pursuant to citations of authority presently codified or, in the case of 10 CFR Part 60, as set out after the list of sections in new Part 60)

Dated at Washington, D.C. this 19th day of February, 1981.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-6334 Filed 2-24-81; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Part 570

[No. 81-83]

Usury Preemption; Most Favored Lender

Dated: February 13, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final interpretative rule.

SUMMARY: The Federal Home Loan Bank Board adopts an interpretative ruling regarding the ability of insured institutions to assert "most favored lender" status under section 522 of Public Law 96-221. This ruling formally endorses the "most favored lender" concept as a matter of Board policy.

EFFECTIVE DATE: April 1, 1980 (effective date of Pub. L. 96-221).

FOR FURTHER INFORMATION, CONTACT: James C. Stewart, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Telephone: (202) 377-6457.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board is issuing an interpretative ruling regarding section 522 of the Depository Institutions Deregulation and Monetary Control Act, 12 U.S.C. 1730g. It is the Board's view that this provision confers "most favored lender" status on insured institutions. Accordingly, an insured association would be authorized by the law to charge interest at the highest rate allowed under state law for the particular class of loans.

Section 522 amends the National Housing Act by adding the following language:

> If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may, notwithstanding any State constitution or statute which is hereby preempted for the purpose of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such institution is located or at the rate allowed by the laws of the State, territory, or district where such institution is located, whichever may be greater.

Virtually identical language was also added to the Federal Deposit Insurance Act, 12 U.S.C. 1831d, the Federal Credit Union Act, 12 U.S.C. 1785, and the Small Business Investment Act, 15 U.S.C. 687. The language also parallels that used in the National Bank Act, 12 U.S.C. 85, and

was intended by the drafters to give Federally-insured lenders and small business investment companies the advantages already enjoyed by national banks. *See* 126 Cong. Rec. S15684 (daily ed. Nov. 1, 1979) (remarks of Senators Pryor & Bumper).

Although in the legislative history of Section 522, the Congressional sponsors focused on the clause allowing affected lenders to charge one percent above the Federal Reserve ninety-day discount rate, the law clearly authorizes lenders to charge the greater of that rate or "the rate allowed by the laws of the State." This latter clause is also found in the National Bank Act and has provided the basis for giving most favored lender status to national banks. In *Tiffany* v. *National Bank of Missouri*, the Supreme Court first ruled that the phrase authorized national banks to charge the highest rate generally available under state law even though state-chartered banks were limited to a lower rate, 85 U.S. 409, 411–12 (1873). As construed by the Comptroller of the Currency, the most favored lender doctrine allows national banks to charge the highest rate available on a class of loans when making that type of loan. *See* 12 CFR 7.7310(a). Given this interpretive history of the phrase "the rate allowed by the laws of the State" and the general Congressional intent to foster more competition among depository institutions, the Board finds the use of this phrase in Section 522 significant evidence that Congress intended all Federally-insured lenders to share the same flexibility previously conferred only on national banks.

In the Board's view, section 522 authorizes insured institutions to charge most favored lender rates when making loans that satisfy the substantive requirements of the state laws which establish those rates. For example, an insured institution may not charge the rates allowed under a state Small Loan Company Act unless the loan meets the state law requirements as to loan term and amount, use of proceeds, identity of borrower, etc. Substantive state law requirements would also include provisions governing prepayment refunds, late charges, credit life insurance, permissible security interests, and similar consumer protections.

Since state authority over federally-chartered associations is preempted by the Home Owners' Loan Act, federally-chartered insured institutions would not be required to submit to state procedural restrictions such as licensing, bonding, and reporting to state authorities in order to charge most favored lender rates. The degree to which state-chartered insured institutions must comply with such procedural requirements should be determined by their State supervisors.

Accordingly, the Board amends Part 570 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 570) as set forth below:

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 570—BOARD RULINGS

1. Add a new § 570.11 to read as follows.

§ 570.11 Most Favored Lender Status.

(a) Under Section 522 of the Depository Institutions Deregulation and Monetary Control Act, insured institutions are authorized to charge on any loan an interest rate equal to the greater of one percentage point above the discount rate on ninety day commercial paper in the institution's Federal Reserve district or "the rate allowed by the laws of the State * * * where such institution is located" whenever either of these rates exceeds the rate the institution is currently permitted. 12 U.S.C 1730g. The stated purpose of this provision is to provide insured institutions with competitive equality with national banks. In view of this Congressional purpose and the judicial construction of the phrase "rate allowed by the laws of the State" in the context of the National Bank Act, it is the opinion of the Board that Section 522 allows insured institutions to charge interest at a rate not to exceed the greater of either one percent above the Federal Reserve ninety-day discount rate or the rate allowed to the most favored lender on the particular class of loans under state law whenever the greater of either of these rates exceeds the rate the institution is permitted to charge by state law.

(b) Insured institutions may only charge the preferential rates reserved for most favored lenders when they are making the same type of loans as the most favored lender. Accordingly, insured institutions could not charge the maximum loan rates permitted for small loan companies unless that loan met the substantive state law requirements as to loan term amount, use of proceeds, identity of borrower, etc. Consumer protections specifically required in such loans when made by the most favored lender would also be considered substantive and must be included in loans made by insured institutions which desire to use most-favored-lender rates.

(c) Federally-chartered insured institutions would not be required to submit to state most-favored-lender restrictions that are primarily procedural or regulatory in nature. Such restrictions would include licensing, bonding, and reporting to state authorities. The degree to which state-chartered insured institutions must comply with such restrictions will be determined by their state supervisors.

(Section 5 of the Home Owners' Loan Act, 12 U.S.C. 1464; Sections 402, 403, 407, and 414 of the National Housing Act, 12 U.S.C 1725, 1726, and 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1071 (1943–48 Compilation))

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-6339 Filed 2-24-81; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 240, 250 and 270

[Release Nos. 33-6291; 34-17547; 35-21920; IC-11622; AS-287]

Reporting of Supplementary Information on the Effects of Changing Prices

AGENCY: Securities and Exchange Commission.

ACTION: Amendment of rules and regulations.

SUMMARY: The Commission is adopting amendments to its rules to require certain registrants (except registered investment companies) to include supplementary information on the effects of changing prices, as specified by Statement of Financial Accounting Standards ("SFAS") Nos. 33, 39, 40 and 41, "Financial Reporting and Changing Prices" of the Financial Accounting Standards Board, in certain filings with the Commission. It is also expanding its safe harbor rule, which heretofore was applicable only to projections, to cover that information. These actions are intended to make information on the effects of changing prices available to users of financial statements filed with the Commission.

EFFECTIVE DATE: Effective for filings made by companies March 27, 1981.

FOR FURTHER INFORMATION CONTACT: James D. Hall or Clarence M. Staubs, Office of the Chief Accountant (202–272–2133), Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is adopting certain amendments

to Regulation S–K (17 CFR Part 229) under the Securities Act of 1933 (15 U.S.C. 17a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and to the general rules and regulations under the Securities Acts. Regulation S–K in the repository of standard instructions for disclosure under the Securities Act of 1933. Item 12 of Regulation S–K (17 CFR 229.20) is amended to require information on the effects of changing prices. The general rules and regulations adopted under the various Securities Acts are revised to provide a safe harbor from the applicable liability provisions of these laws for disclosure of information on the effects of changing prices.

The amendments to Regulation S–K affect only those registrants (except registered investment companies) subject to the reporting requirements of SFAS Nos. 33, 39, 40 and 41; that is, only those public enterprises that prepare their primary financial statements in United States ("U.S.") dollars and in accordance with U.S. generally accepted accounting principles and that have, at the beginning of the fiscal year for which financial statements are being presented, either (1) inventories and gross property, plant and equipment amounting in the aggregate to more than $125 million, or (2) total assets amounting to more than $1 billion (after deducting accumulated depreciation). The effect of the amendment to Regulation S–K is to require affected registrants to disclose such supplementary information in registration statements on Forms S–1, S–7, S–11, S–14, and Form 10, in certain proxy and information statements, in annual reports to shareholders subject to Rules 14a–3 or 14c–3 and in annual reports on Form 10–K. The supplementary information is required on a consolidated basis for registrants who present consolidated financial statements, and it need not be presented separately for a parent company, an investee company, or other enterprise whose results are included in consolidated financial statements or in published interim reports. Furthermore, the information is not required to be presented for segments of a business enterprise, although such presentations are encouraged by the FASB in SFAS No. 33.

The other amendments adopted by this release provide a safe harbor rule for information on the effects of changing prices disclosed voluntarily by registrants pursuant to Item 12 of Regulation S–K or Item 11 of Regulation S–K relating to the management's discussion and analysis. This safe harbor is provided by amendment of the previously existing safe harbor rule for projections [1] (adopted as a part of the rules and regulations under the various Securities Acts) to extend its coverage to information on the effects of changing prices. In addition, notwithstanding the exclusion of registered investment companies from the amendments to Item 12 of Regulation S–K, a new rule under the Investment Company Act is adopted to provide a safe harbor for information about the effects of changing prices disclosed in documents filed or transmitted to the Commission by investment companies.

Background

On March 27, 1980, the Securities and Exchange Commission in Securities Act Release No. 6201 (45 FR 23470) proposed amendments to Regulation S–K which would require that certain companies include in specified registration statements that supplementary information on the effects of changing prices (as specified by SFAS No. 33, "Financial Reporting and Changing Prices," of the FASB). That Release also proposed an expansion of the safe harbor provisions of the general regulations of the several Securities Acts, in order to provide a safe harbor from the applicable liability provisions of these laws for disclosure of information on the effects of changing prices.[2]

The requirements of SFAS No. 33, and the supplements related to the "specialized assets" in the mining, oil and gas producing, forest products, and income-producing real estate industries,[3] are applicable to published annual reports that contain the primary financial statements of the enterprise. In order to implement SFAS No. 33, the Commission is adopting these amendments which require disclosure of the information prescribed by that statement in certain registration statements filed under the Securities Act of 1933 and the Securities Exchange Act of 1934, in annual reports and in certain proxy and information statements.

Some of the language used in the proposed amendments included in Securities Act Release No. 6201 caused several commentators to be concerned that the Commission was seeking to broaden the scope and requirements of SFAS No. 33. That was not the intention. Although these amendments impose a requirement on certain issuers to include the information called for in SFAS Nos. 33, 39, 40 and 41 in certain documents, they do not extend the provisions of SFAS No. 33 to published interim reports or to entities that do not meet the size criteria of that Statement or to foreign private issuers who do not prepare their primary financial statements in U.S. dollars and in accordance with accounting principles generally accepted in the United States.

There were 18 letters of comments received in response to the proposed amendments. Some of these commentators alluded to the experimental nature of the disclosures required by SFAS No. 33 and the encouragement contained in that Statement to experiment with other ways to better communicate the effects of changing prices on the finanical condition and results of operations of enterprises. Therefore, the provisions of the safe harbor rule, according to these commentators, should extend not only to the information specified by SFAS No. 33, but to other information of a similar nature. The Commission concurs with these observations and has revised the safe harbor rule to encompass information about changing prices which is voluntarily disclosed as well as information about changing prices disclosed pursuant to Item 11 or 12 of Regulation S–K.

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[1] Although the format of the safe harbor rule for projections has been modified to accommodate this extension, its previous provisions are not affected by this amendment.

[2] Prior to the amendments adopted in this Release, Rule 175 of the General Rules and Regulations under the Securities Act of 1933 (17 CFR 230.175) and Rule 3b–6 under the Securities Exchange Act (17 CFR 240.3b–6) and Rule 103A (17 CFR 250.103A) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) provided a conditional safe harbor regarding only forward looking statements by issuers.

[3] SFAS No. 39, "Financial Reporting and Changing Prices: Specialized Assets—Mining and Oil and Gas," makes the current cost provisions of paragraphs 30(a)-(c) and 35(c)(1)–(4) of SFAS No. 33 applicable to mineral resource assets. Additionally, enterprises that own mineral reserves other than oil and gas are required to disclose certain information regarding estimates of significant quantities of proved, or proved and probable mineral reserves and the average market prices for each significant mineral product.

SFAS No. 40, "Financial Reporting and Changing Prices: Specialized Assets—Timberlands and Growing Timber," extends the interim provisions in SFAS No. 33 for the measurement of timberlands, growing timber, and related expenses; that is, the "specialized assets" in this industry may be included in current cost basis disclosures at either their historical cost/constant dollar amounts or at current cost or lower recoverable amounts.

SFAS No. 41, "Financial Reporting and Changing Prices: Specialized Assets-Income-Producing Real Estate," also extends the interim provisions in SFAS No. 33 to allow the inclusion of income-producing real estate under a current cost basis at either the historical cost/constant dollar amounts or at current cost or lower recoverable amounts.

Text of Amended Rules, Regulations and Forms

17 CFR Chapter II is amended as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S—K

1. By adding a new paragraph (c) to Item 12 of § 229.20 to read as follows:

§ 229.20 Information required in document.

* * * * *

Item 12. Supplementary financial information.

* * * * *

(c) *Information on the effects of changing prices.* Information on the effects of changing prices on business enterprises shall be presented by registrants (except registered investment companies) subject to the reporting provisions of Statement of Financial Accounting Standards Nos. 33, 39, 40 and 41, "Financial Reporting and Changing Prices," in accordance with the specific provisions of those Statements.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

2. By revising § 230.175 to read as follows:

§ 230.175 Liability for certain statements by issuers.

(a) A statement within the coverage of paragraph (b) of this section which is made by or on behalf of an issuer or by an outside reviewer retained by the issuer shall be deemed not to be a fraudulent statement (as defined in paragraph (d) of this section), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This rule applies to the following statements:

(1) A forward looking statement (as defined in paragraph (c) of this section) made in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, 17 CFR 249.308a, or in an annual report to shareholders meeting the requirements of Rules 14a–3(b) and (c) or 14c–3(a) and (b) under the Securities Exchange Act of 1934, a statement reaffirming such forward looking statement subsequent to the date the document was filed or the annual report was made publicly available, or a forward looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such statement is reaffirmed in a filed document or annual report made publicly available within a reasonable time after the making of such forward looking statement: *Provided,* That

(i) At the time such statements are made or reaffirmed, the issuer is subject to the reporting requirements of the Securities Exchange Act of 1934 and has filed its most recent annual report on Form 10–K, or, if the issuer is not subject to the reporting requirements of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933, and

(ii) The statements are not made by or on behalf of an issuer that is an investment company registered under the Investment Company Act of 1940;

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 11 of Regulation S–K (§ 229.20), "Management's discussion and analysis of financial condition and results of operations," or Item 12 of Regulation S–K (§ 229.20), "Supplementary financial information," and disclosed in a document filed with the Commission or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934.

(c) For the purpose of this rule the term "forward looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plans and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations included pursuant to Item 11 of Regulation S–K; or

(4) Disclosed statements of the asssumptions underlying or relating to any of the statements described in (1), (2), or (3) above.

(d) For the purpose of this rule the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud, as those terms are used in the Securities Act of 1933 or the rules or regulations promulgated thereunder.

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

3. By revising § 240.3b–6 to read as follows:

§ 240.3b–6 Liability for certain statements by issuers.

(a) A statement within the coverage of paragraph (b) of this section which is made by or on behalf of an issuer or by an outside reviewer retained by the issuer shall be deemed not to be a fraudulent statement (as defined in paragraph (d) of this section), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This rule applies to the following statements:

(1) A forward looking statement (as defined in paragraph (c) of this section) made in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, 17 CFR 249.308a, or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) or (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934, a statement reaffirming such forward looking statement subsequent to the date the document was filed or the annual report was made publicly available, or a forward looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such statement is reaffirmed in a filed document or annual report made publicly available within a reasonable time after the making of such forward looking statement: *Provided,* That

(i) At the time such statements are made or reaffirmed, the issuer is subject to the reporting requirements of the Securities Exchange Act of 1934 and has filed its most recent annual report on Form 10–K, or, if the issuer is not subject to the reporting requirements of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933, and

(ii) The statements are not made by or on behalf of an issuer that is an investment company registered under the Investment Company Act of 1940;

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 11 of Regulation S–K

(§ 229.20), "Management's discussion and analysis of financial condition and results of operations," or Item 12 of Regulation S–K (§ 229.20), "Supplementary financial information," and disclosed in a document filed with the Commission or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934.

(c) For the purpose of this rule the term "forward looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plans and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations included pursuant to Item 11 of Regulation S–K; or

(4) Disclosed statements of the assumptions underlying or relating to any of the statements described in (1), (2), or (3) above.

(d) For the purpose of this rule the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud, as those terms are used in the Securities Exchange Act of 1934 or the rules or regulations promulgated thereunder.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

4. By revising § 250.103A to read as follows:

§ 250.103A Liability for certain statements by issuers.

(a) A statement within the coverage of paragraph (b) of this section which is made by or on behalf of an issuer or by an outside reviewer retained by the issuer shall be deemed not to be a fraudulent statement (as defined in paragraph (d) of this section), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This rule applies to the following statements:

(1) A forward looking statement (as defined in paragraph (c) of this section) made in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, 17 CFR 249.308a, or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934, a statement reaffirming such forward looking statement subsequent to the date the document was filed or the annual report was made publicly available, or a forward-looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such statement is reaffirmed in a filed document or annual report made publicly available within a reasonable time after the making of such forward looking statement; *Provided,* That

(i) At the time such statements are made or reaffirmed, the issuer is subject to the reporting requirements of the Securities Exchange Act of 1934 and has filed its most recent annual report on Form 10–K, or, if the issuer is not subject to the reporting requirements of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933, and

(ii) The statements are not made by or on behalf of an issuer that is an investment company registered under the Investment Company Act of 1940;

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 11 of Regulation S–K (§ 229.20), "Management's discussion and analysis of financial condition and results of operations," or Item 12 of Regulation S–K (§ 229.20), "Supplementary financial information," and disclosed in a document filed with the Commission or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934.

(c) For the purpose of this rule the term "forward looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plans and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations included pursuant to Item 11 of Regulation S–K; or

(4) Disclosed statements of the assumptions underlying or relating to any of the statements described in (1), (2), or (3) above.

(d) For the purpose of this rule the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud, as those terms are used in the Public Utility Holding Company Act of 1935 and other acts referred to in Section 16(b) thereof.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

5. By adding § 270.0–9 to read as follows:

§ 270.0–9 Liability for certain statements by issuers.

(a) A statement within the coverage of paragraph (b) of this section which is made by an issuer shall be deemed not to be a fraudulent statement (as defined in paragraph (c) of this section), unless it is shown that such statement was made without a reasonable basis or was disclosed other than in good faith.

(b) This rule applies to information relating to the effects of changing prices on the business enterprise disclosed in a document transmitted to or filed with the Commission or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934.

(c) For the purpose of this rule the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or a fact which is materially misleading in light of the reports required to be filed pursuant to subsections (a) and (b) of section 30 of the Investment Company Act of 1940, as those terms are used in the Investment Company Act of 1940 or the rules or regulations promulgated thereunder.

* * * * *

(Secs. 6, 7, 8, 10 and 19(a) [15 U.S.C. 77f, 77g, 77h, 77j, 77s] of the Securities Act of 1933; sections 12, 13, 15(d) and 23(a) [15 U.S.C. 78*l*, 78m, 78o(d), 78w] of the Securities Exchange Act of 1934; section 20 [15 U.S.C. 79t] of the Public Utility Holding Company Act of 1935;

and section 38(a) [15 U.S.C. 80a-37(a)] of the Investment Company Act of 1940)

Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposed amendments on competition and is not aware at this time of any burden that such rule amendments would impose on competition.

By the Commission.

George A. Fitzsimmons,

Secretary.

February 17, 1981.

[FR Doc. 81-6281 Filed 2-24-81; 8:45 am]

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17 CFR Part 240

[Release No. 34-17549, File No. S7-787]

Designation of National Market System Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission adopts a rule which provides procedures by which certain securities would be designated as qualified for trading in a national market system. The Commission also adopts a rule amendment which will require the dissemination of transaction and quotation information with respect to those designated securities. The primary near-term substantive effect of the rule and amendment will be to designate approximately 40 over-the-counter securities as national market system securities and to require, as of February 1, 1982, that transactions in such securities be reported in a real-time system and that quotations for such securities be firm as to the quoted price and size. The Commission has adopted both the rule and amendment as part of its efforts to facilitate the establishment of a national market system in accordance with the Securities Acts Amendments of 1975.

EFFECTIVE DATES: April 1, 1981, for Rule 11Aa2-1. February 1, 1982, for the amendments to Rule 11Aa3-1.

FOR FURTHER INFORMATION CONTACT: Brandon Becker, (202) 272-2886, Room 392, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission" or "SEC") announced today the adoption of Rule 11Aa2-1 ("Rule") [1] under the Securities Exchange Act of 1934 ("Act") [2] which establishes procedures by which certain securities will be designated as qualified for trading in a national market system ("NMS Securities"). In addition, the Commission announced the adoption of a conforming amendment to Rule 11Aa3-1 under the Act [3] which will require the dissemination of transaction and quotation [4] information with respect to securities currently traded solely over-the-counter ("OTC") once those securities are designated as NMS Securities ("OTC/NMS Securities").

I. Background [5]

A. Legislative History

The 1975 Amendments establish the need "to remove impediments to and perfect the mechanisms of a national market system for securities" as a purpose of the Act [6] and direct the Commission "to facilitate the establishment of a national market system which may include subsystems for particular types of securities with unique trading characteristics." [7] Those Amendments, however, do not specify which securities should be included in a national market system ("NMS") or subsystem thereof. Rather, in consonance with Congress' intent to provide the Commission with "maximum flexibility" in the establishment of an NMS, [8] the Act states that "[t]he Commission, by rule, shall designate the securities or classes of securities qualified for trading in the [NMS] from among securities other than exempt securities." [9] In keeping with this preference for flexibility, the legislative history indicates a Congressional belief that the Commission should evaluate various characteristics of a security (*e.g.*, "trading volume, price and number of stockholders" [10]) which may indicate whether a particular security is appropriate for inclusion in an NMS or subsystem thereof.

B. Prior Proceedings

Prior to the proposal of Rule 11Aa2-1, the Commission solicited comment on issues relating to the designation of securities as NMS Securities on three separate occasions. [11] In response to these earlier discussions, the Commission received comments from representatives of both the exchange and OTC markets. In general, the exchange community suggested that all exchange traded securities for which transaction information is reported ("reported securities") [12] in the

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[1] 17 CFR 240.11Aa2-1.

[2] 15 U.S.C. 78a *et seq.*, as amended by the Securities Acts Amendments of 1974 ("1975 Amendments"), Pub. L. 94-29 (June 4, 1975), 89 Stat. 97, [1975] U.S. Code Cong. & Ad. News 97.

[3] 17 CFR 240.11Aa3-1. *See* Securities Exchange Act Release No. 16589 (February 19, 1980) ("Rule 11Aa3-1 Adoption Release"), 45 FR 12377.

[4] *See* Rule 11Ac1-1 under the Act, 17 CFR 240.11Ac1-1 and Securities Exchange Act Release No. 14415 (January 26, 1978) (Adoption of Rule 11Ac1-1), 43 FR 4342.

[5] For a more extensive discussion of the background of Rule 11Aa2-1 *see* Securities Exchange Act Release No. 15926, at 2-13, (June 15, 1979) ("Rule 11Aa2-1 Proposal Release"), 44 FR 36912, 36912-14.

[6] Section 2 of the Act.

[7] Section 11A(a)(2) of the Act.

[8] Senate Comm. on Banking, Housing & Urb. Affs., *Report to Accompany S. 249: Securities Acts Amendments of 1975*, S. Rep. No. 94-75, 94th Cong., 1st Sess. 7 (Comm. Print 1975) ("Senate Report"), *reprinted in*, [1975] U.S. Code Cong. & Ad. News 179, 185.

[9] Section 11A(a)(2) of the Act.

[10] Senate Report, *supra* note 8, at 16, [1975] U.S. Code Cong. & Ad. News at 194.

[11] Securities Exchange Act Release Nos. 12159 (March 2, 1976) (requesting comment on issues related to the development of a Composite Limit Order Book ("CLOB") "CLOB Release"); 14416 (January 26, 1978) (January statement on issues related to the development of an NMS generally, "January Statement"); and 15671 (March 22, 1979) (status report on the development of an NMS; "Status Report"); 9 S.E.C. Doc. 76, 43 FR 4354 and 44 FR 20360. For a more extensive discussion of these prior proceedings, *see* Rule 11Aa2-1 Proposal Release, *supra* note 5, at 5-13, 44 FR at 36912-14.

[12] Paragraph (a)(4) of Rule 11Aa3-1 defines the term "reported security" to include "any listed equity security . . . for which a transaction reporting plan with respect to such security is required to be filed" by that Rule. Paragraph (b) of that Rule requires national securities exchanges ("exchanges") national securities associations ("associations") and brokers or dealers who are not members of an exchange or association to file transaction reporting plans "with respect to transactions in listed equity securities." Rule 11Aa3-1(b)(1) and (b)(2). Pursuant to former Rule 17a-15 under the Act (the predecessor to Rule 11Aa3-1), the Commission has declared effective one joint industry plan for transaction reporting, the Consolidated Tape Association ("CTA") Plan ("CTA Plan"). *See* Securities Exchange Act Release No. 10787 (May 10, 1974), 39 FR 17799. The original CTA Plan and the CTA's Articles of Association were published in [1974] Sec. Reg. & L. Rep. (BNA) No. 250, at I-1 (May 1, 1974).

Following approval of the CTA Plan, the Commission exempted from the reporting requirements of then Rule 17a-15 "all listed securities which are not eligible for reporting pursuant to" the CTA Plan. Securities Exchange Act Release No. 10851 (June 13, 1974), 39 FR 22194. The CTA Plan provides for the reporting of transactions in "eligible securities" which are defined to include: (1) any common stock, long term warrant or preferred stock registered or admitted to unlisted trading privileges on either the American ("Amex") or New York ("NYSE") Stock Exchanges, (2) any common stock, long term warrant, or preferred stock registered on any exchange or admitted to unlisted trading privileges thereon which substantially meets either Amex or NYSE listing requirements and (3) any right to acquire any of the securities described in (1) and (2) which is traded on the same exchange as the eligible security. *See* CTA Plan, Restatement and Amendment to Plan submitted to SEC pursuant to Rule 17a-15 under Securities Exchange Act of 1934, § VI, at 22-26, dated March 1, 1980, contained in Public File No. S7-433. *See also* Securities Exchange Act Release No. 16983 (July 16, 1980) (Order approving revised CTA Plan), 45 FR 49414.

consolidated transaction reporting system ("consolidated system") should be designated as NMS Securities. However, representatives of the OTC market, responding to Commission indications that at least some OTC securities eventually should be included in an NMS,[13] urged the Commission to proceed with caution in designating OTC securities because, in their view, premature inclusion of such securities might create disincentives to market making in those securities.[14] In this connection, the National Security Traders Association ("NSTA") proposed that a "limited number" of OTC securities initially should be included in a pilot program to permit the Commission and industry to determine whether such inclusion "would seriously impair the viability of [the OTC] market." [15]

In response to these differing views, the Commission proposed Rule 11Aa2–1 on June 15, 1979.[16] As proposed, the Rule contemplated that the exchanges and the National Association of Securities Dealers, Inc. ("NASD") would jointly agree upon and file, for approval by the Commission, a designation plan which would provide for the establishment of a designation body to select NMS Securities. The proposed Rule set forth two sets of criteria, applicable equally to exchange traded and OTC securities, for the designation of NMS Securities. Under the more stringent tier 1 criteria, securities meeting certain numerical tests relating to national investor interest (*e.g.*, trading volume, price per share and public float) would be automatically desginated as NMS Securities. Under the less stringent and more subjective tier 2 criteria, other securities would be eligible for designation as NMS Securities ("Potential NMS Securities") upon application to the designation body by the issuer or two or more market centers.[17] The designation body, which the self-regulatory organizations ("SROs") would have been required to create, would then have been given discretion to designate particular securities as NMS Securities based on criteria to be set forth in the designation plan.[18]

C. Overview of Comments Received

The Commission received 11 comments on proposed Rule 11Aa2–1: four from exchanges,[19] three from issuers and issuer groups,[20] two from OTC representatives,[21] one from a broker-dealer,[22] and one from the Securities Industry Association ("SIA").[23] While there was a general recognition of the Commission's mandate to designate those securities which should participate in an NMS, exchanges and commentators from the OTC community were critical of various aspects of the proposed Rule. The exchange community criticized the proposal because some reported securities would not, under either tier 1 or tier 2 criteria, be designated as NMS Securities. Thus, the exchanges and SIA argued that, if the Rule were adopted, all reported securities should be designated as NMS Securities.[24]

In contrast, representatives of the OTC market, such as the NASD, NSTA and Merrill, raised separate concerns regarding the designation of any OTC securities as NMS Securities at this time. In essence, these commentators argued that, while ultimately it might be appropriate to designate a small group of OTC securities, this action was premature and should not be taken until after adoption of, and experience under, the proposed Rule 19c–3 under the Act regarding off-board trading restrictions.[25] It was argued that adoption of that Rule would provide the Commission and the OTC community with an opportunity to gain important first hand experience with real-time transaction reporting which would then provide a basis for determining which OTC securities should be subject to such reporting. In addition, these commentators, and groups representing corporate issuers, argued that issuers should be provided a greater role in the designation process than contemplated by the proposed Rule.

After careful consideration of these comments and, in particular, the issues discussed below, the Commission has determined to adopt the Rule in revised form. As adopted, the Rule applies only to OTC securities. With respect to these securities, the Commission has retained a two-tier approach, modified to

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[13] In the January Statement, the Commission had indicated its belief that certain OTC securities should be designated as NMS Securities and that it was its intention: "[t]o require [transaction] information with respect to completed transactions in all [OTC/NMS Securities] to be included in the consolidated system, to require quotations in those [S]ecurities to be collected and disseminated in accordance with Rule 11Ac1–1 under the Act, and otherwise to ensure that trading in such [S]ecurities can be effected by means of, and subject to the requirements of, the order routing and other systems which must be developed to realize [NMS] objectives." January Statement, *supra* note 11, at 46, 43 FR at 4361 (footnote omitted).

[14] In particular, OTC representatives had argued that transaction reporting for securities traded exclusively in the OTC market might reduce the liquidity of the markets for those securities because OTC market makers might be less willing to acquire a position in a security if their competitors were able to discover, via transaction reporting, the size of the position they had acquired. *See* Rule 11Aa2–1 Proposal Release, *supra* note 5, at 51–56, 44 FR at 36920–21, and text accompanying notes 46–47, *infra*.

[15] Letter from Lawrence R. Rice, Chairman, and Morton N. Weiss, Presient, NSTA, to George A. Fitzsimmons, Secretary, SEC, at 2, dated June 28, 1978 ("1978 NSTA Letter"), contained in File No. S7–735–A.

[16] *See* Rule 11Aa2–1 Proposal Release, *supra* note 5.

[17] The Commission also proposed, with respect to each specific criterion, alternative levels of numerical standards which would be progressively more inclusive of securities. For a more extensive description of Rule 11Aa2–1 as proposed, *see* Rule 11Aa2–1 Proposal Release, *supra* note 5, at 14–21, 44 FR at 36914–15.

[18] Among other things, the proposed Rule indicated that the designation body could consider the views of the issuer and other interested parties. In addition, the designation body was to be responsible for the development and administration of maintenance criteria for NMS Securities.

[19] Letter from Robert J. Birnbaum, President, Amex, to George A. Fitzsimmons, Secretary, SEC, dated October 3, 1979 ("Amex Letter"); Letter from James E. Dowd, President, Boston Stock Exchange, Inc. ("BSE"), to George A. Fitzsimmons, Secretary, SEC, dated September 7, 1979 ("BSE Letter"); Letter from Richard B. Walbert, President, Midwest Stock Exchange, Inc. ("MSE"), to Andrew M. Klein, Director, Division of Market Regulation, SEC, dated September 20, 1979 ("MSE Letter"); and Letter from James E. Buck, Secretary, NYSE, to the SEC, dated September 28, 1979 ("NYSE Letter"). These letters are contained in Public File No. S7–787.

[20] Letter from Gary E. Hughes, Senior Counsel, American Council of Life Insurance ("ACLI"), to George A. Fitzsimmons, Secretary, SEC, dated August 14, 1979 ("ACLI Letter"); Letter from J. David Silver, Chairman, Securities Industry Committee, American Society of Corporate Secretaries, Inc. ("ASCS"), to SEC, dated September 27, 1979 ("ASCS Letter"); and Letter from Donald R. Blum, Secretary & Assistant Treasurer, Cincinnati Gas & Electric Co. ("CG&E"), to SEC, dated September 26, 1979 ("CG&E Letter"). These letters are contained in Public File No. S7–787.

[21] Letter from Gordon S. Macklin, President, NASD, on behalf of the NASD's National Market System Qualifications Committee, to George A. Fitzsimmons, Secretary, SEC, dated August 13, 1979 ("1979 NASD Letter"); and Letter from Morton N. Weiss, President, NSTA, to George A. Fitzsimmons, Secretary, SEC, dated September 28, 1979 ("1979 NSTA Letter") (The 1978 NSTA Letter, *supra* note 15, was attached.) These letters are contained in Public File No. S7–787. *See* Letter from Gordon S. Macklin, President, NASD, to Harold M. Williams, Chairman, SEC, dated June 7, 1978 ("1978 NASD Letter"), contained in Public File No. S7–735–A.

[22] Letter from William A. Schreyer, President, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill"), to George A. Fitzsimmons, Secretary, SEC, dated August 13, 1979 ("Merrill Letter"), contained in Public File No. S7–787.

[23] Letter from Edward I. O'Brien, President, SIA, to George A. Fitzsimmons, Secretary, SEC, dated September 28, 1979 ("SIA Letter"), contained in Public File No. S7–787.

[24] In addition, the exchanges also supported the designation of OTC securities either based on the criteria currently used to determine which exchange traded securities are reported in the consolidated system or the use of separate criteria. The SIA took the position that further study was necessary to determine which OTC securities should be designated.

[25] Since the proposal of Rule 11Aa2–1, On June 15, 1979, the Commission has adopted Rule 19c–3, 17 CFR § 240.19c–3, which removes exchange off-board trading restrictions regarding certain securities listed on an exchange on or after April 26, 1979. *See* Securities Exchange Act Release No. 16888 (June 11, 1980) ("Rule 19c–3 Adoption Release"), 45 FR 41125. Rule 19c–3 became effective on July 18, 1980.

eliminate certain of the complexities inherent in the proposal, while retaining a significant issuer voice in the selection of tier 2 securities. As adopted, the Rule still would require, under the tier 1 criteria, the automatic designation of a limited number of more actively traded OTC securities. Under the tier 2 criteria, a far larger group of OTC securities will be eligible for designation subject to an application by an issuer of such security and verification by the NASD that the security "substantially meets" the tier 2 designation criteria.[26] The Commission also has determined to adopt proposed amendments to Rule 11Aa3–1 which will provide that NMS securities will be subject to real-time transaction reporting and market makers in such Securities will be required to provide firm quotations pursuant to the Commission's Quota Rule, Rule 11Ac1–1 under the Act.

The substantive portions of the Rule and the amendments to Rule 11Aa3–1 will not become effective until February 1, 1982. On that date, approximately 40 securities currently traded exclusively in the OTC market will become subject to real-time transaction and quotation reporting.[27] In addition, on August 1, 1982, approximately 454 OTC securities will become eligible for such reporting if the issuers of such securities elect to have those securities designated as NMS Securities.[28] As discussed below, the Commission intends to monitor the effects of adoption of the Rule in conjunction with its overall assessment of progress toward a national market system with a view toward determining whether additional OTC securities or exchange traded securities should be added to the list of NMS Securities (through a change in the tier 1 criteria) or the list of Potential NMS securities (through a change in the tier 2 criteria) and whether additional steps should be taken with respect to these or other securities to more fully achieve the Congressional mandate to facilitate a national market system.[29]

II. Discussion

A. Application To Exchange Traded Securities

1. *Comments.* As noted above, while one exchange commentator called for "prompt adoption" of the Rule as proposed,[30] other exchange commentators suggested that "there is no present justification for the application of the Rule to listed securities."[31] These commentators indicated their concern that, if the Commission were to adopt designation criteria which did not include at least all reported securities, then investors "might mistakenly believe the securities at the lower levels, [*i.e.*, those securities which might not be designated or be designated pursuant to the tier 2 criteria,] are somehow of a lesser investment quality than those at higher levels."[32] In light of these concerns, commentators recommended either that the Rule not address exchange traded securities or that the Commission should include all reported securities.

In contrast to these views, representatives of the OTC market argued that, if any securities are designated, uniform standards should be applied to both exchange traded and OTC securities. In addition, they argued that, if the Rule were adopted, the general approach should be initially to designate a limited number of exchange traded and OTC securites with provision for the gradual inclusion of additional securities.[33]

2. *Analysis.* The Commission does not believe that it is necessary to resolve at this time all of the issues associated with qualification for trading in an NMS, including (1) which exchange traded securities should be designated as NMS Securities and (2) whether, given the different trading environments which presently characterize exchange trade and OTC securities, it is essential that both exchange traded and OTC securities meet the same designation criteria.

Because the only immediate effect of designation at this time will be the inclusion of securities in the NMS last sale and quotation disclosure facilities and because virtually all exchange traded securites which would have been designated under the standards contained in the Rule as adopted already are the subject of transaction and quotation reporting,[34] designation would have no practical effect on exchange traded securities. Because of this fact and because of the concerns expressed by commentators that selection of less than all reported securities would create unwarranted distinctions among listed securities, the Commission has determined not to designate, at this time, any exchange traded securities and to proceed with the designation process in a measured and phased manner. The Commission has not, however, withdrawn those portions of the proposed Rule which relate to exchange traded securities. Rather, in light of the Commission's

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[26] As noted above (*see* text accompanying notes 16–18, *supra*), the Rule, as proposed, contemplated that the exchanges and the NASD would have filed a joint designation plan including a designation body which would have, in part, reviewed applications under tier 2 of both OTC issuers and market centers and determined whether a security should be designated. (*See* Rule 11Aa2–1 Proposal Release, *supra* note 5, at 18–21, 44 FR at 36915.) However, the provisions of the Rule regarding the designation plan have been revised. First, because the Rule, as adopted, only applies to OTC securities, the Rule imposes the responsibility to file a designation plan and act as the designation body solely on the NASD. Second, under the Rule as adopted, the designation body does not retain substantial discretion. Instead, the Rule requires that the designation body determine, upon application by an issuer, whether a security "substantially meets" the tier 2 criteria. *Cf.* Amex Letter, *supra* note 19, at 4; BSE Letter, *supra* note 19, at 2; 1979 NASD Letter, *supra* note 21, at 2; 1978 NASD Letter, *supra* note 21, at 2–3; and NYSE Letter, *supra* note 19, at 2–4.

[27] Certain parts of the Rule will become effective on April 1, 1981. *See* note 99, *infra*.

[28] The estimates of tier 1 and tier 2 securities are based on 1979 price per share and volume data supplied by the NASD. *See* notes 99–100 *infra*. The Commission also would note that the addition of mandatory quotation reporting should not involve any significant change in the behavior of OTC market makers because most such market markers already disseminate current quotations through the NASD's Automated Quotation ("NASDAQ") System and the NASD recently approved adding to the System the capability of displaying size, *see* note 37, *infra*.

[29] *See* text accompanying notes 102–49, *infra*.

[30] *See* MSE Letter, *supra* note 19.

[31] Amex Letter, *supra* note 19, at 2. *See* BSE Letter, *supra* note 19, at 2, and NYSE Letter, *supra* note 19, at 4–6.

[32] Amex Letter, *supra* note 19, at 3. *See* BSE Letter, *supra* note 19.

[33] For example, Merrill proposed the following approach:

> Initially we would set the standard . . . at a level equivalent to the NYSE listing requirements with an average monthly volume of 600,000 shares. The standards can be relaxed in time as other securities are phased in and . . . eventually [NMS designation] would be determined by the interest which investors show in trading the securities. Initially, however, we would go slowly and insure that the system functions properly before expanding it.

Merrill Letter, *supra* note 22, at 3. The NSTA also recommended a 600,000 monthly share volume standard. 1979 NSTA Letter, *supra* note 21, at 3. Thus, the standards proposed by Merrill and the NSTA would not resolve the exchange community's concern that some exchange traded securities would not be designated, as some of their securities presumably would not meet NYSE listing requirements. Moreover, it should be noted that, as of June 30, 1979, the NYSE estimated that the securites of only 169 (10.97%) of the 1,540 companies then listed on the NYSE would have met the designation criteria proposed in conjunction with a 600,000 share per month volume test. Comparison Matrix, *attached to*, NYSE Letter, *supra* note 19.

[34] In this connection, it should be noted that, although the NYSE Letter stated that "[i]t is not clear" whether a non-NMS security would "become ineligible for inclusion in either or both the" consolidated system or the consolidated quotation system (NYSE Letter, *supra* note 19, at 5 n.*), the Rule 11Aa2–1 Proposal Release explicitly stated that "because the dissemination of current transaction and quotation information is essential to maintaining the fairness and orderliness of the markets for exchange traded securities, the Commission believes that it should continue to be required for reported securities even if those securities are not [NMS S]ecurities." Rule 11As2–1 Proposal Release, *supra* note 5, at 31, 44 FR at 36917 (footnotes omitted).

actions today, it requests that interested parties provide, by July 10, 1981, their views and arguments regarding whether exchange traded securities should be designated as NMS Securities and which securities should be so designated.[35]

B. Designation of OTC/NMS Securities and Inclusion of Those Securities in the NMS Disclosure Facilities

As indicated above,[36] the major impact of adoption of the Rule is that transactions in OTC/NMS Securities would be required to be reported in a real-time system.[37] Thus, the threshold question in addressing whether it is appropriate to designate OTC securities at this time is whether those securities should be subject to mandatory transactions reporting.

1. *Comments.* Although there was disagreement among the commentators concerning which OTC securities should be designated, most commentators supported the eventual designation of some OTC securities. The BSE and NYSE suggested that the standards applied by the CTA to determine which exchange traded securities are reported also should be used to designate OTC/NMS Securities.[38] Specifically, the NYSE suggested that such standards would result in the designation of approximately 600 OTC securities.[39]

Merrill, the NASD and the NSTA argued, however, that, although some OTC securities ultimately should be designated, inclusion of OTC securities in the NMS disclosure facilities at this time would be premature. They contended that the Commission should adopt then proposed Rule 19c–3 and gain some experience under that Rule before OTC securities are designated as NMS Securities. Specifically, they argued that adoption of Rule 19c–3 would provide the Commission, NASD, OTC issuers and OTC market makers with an opportunity to assess the impact of including OTC securities in the NMS disclosure facilities.[40]

Furthermore, the NASD and NSTA expressed concern regarding the manner by which, if the Rule were to be adopted, transaction information with respect to OTC/NMS Securities would be made available to broker-dealers and investors.[41] Specifically, they noted that, under present CTA reporting procedures for exchange traded securities, reported securities are segregated by market so that last sale reports for NYSE securities and those for Amex and other exchange listed securities are reported in a segregated manner for certain dissemination purposes (including determination of applicable fees and charges).[42] In this connection, they argued that, rather than further segregate last sale reports by creating a third data stream for OTC/NMS Securities,[43] or by including last sale reports for OTC/NMS Securities with those of Amex and regional listings, "there should be no unequal tape distinctions" [44] and "all information relating to [NMS] Securities [should] be available equally through interrogation devices, newspapers, tickers, or other facilities with no market-place distinction." [45]

Finally, although not specifically raised in connection with the Rule 11Aa2–1 proceeding, in the past, various OTC representatives also have expressed concern regarding the potential effect of last sale reporting on the liquidity of the OTC market.[46] In this connection, it has been argued that OTC market makers might be less willing to acquire a position in a security subject to transaction reporting both because of the direct (*e.g.*, clerical) costs associated with transaction reporting and because they might be concerned that they would be unable to effectively liquidate a significant position if their competitors were aware, via transaction reporting, of the size of that position. While these

[35] Commentators may wish to consider whether exchange traded securities which meet one of the following possible alternatives should be designated as NMS Securites: (1) securities which meet the tier 1 or tier 2 criteria adopted today; (2) securities subject to Rule 19c–3 and available for trading through a linkage facility with the OTC market; (3) securities which are traded through an exchange linkage facility such as the Intermarket Trading System ("ITS"); (4) securities which are traded by multiple market centers, irrespective of whether those securities are traded through a linkage facility; and (5) all reported securities.

[36] *See* text accompanying notes 26–29 *supra*.

[37] In addition, although the Commission did not receive any specific comments on the issue, it should be noted that market makers in OTC/NMS Securities also would be subject to the Commission's Quote Rule. In general, that Rule would require, subject to certain exceptions, that market makers communicate their quotations (including size) to the NASD for public dissemination and that those quotations be firm as to the price and size communicated. The Commission has determined that the additional firmness, size the mandatory participation requirements of the Quote Rule are necessary to enhance the quality of quotation information in OTC/NMS Securities. However, while these obligations would be required by Rule 11Ac1–1, they should not prove burdensome for OTC market makers because most such market makers already voluntarily make quotations available through NASDAQ. Nevertheless, application of the Quote Rule will require the NASD to enhance NASDAQ or the Consolidated Quotations System ("CQS") to permit OTC market makers to provide quotations with size. *See* Rule 11Ac1–1(c)(1). In this regard, the Commission would note that the NASD, itself, has determined to modify NASDAQ to allow OTC market makers to display the size of their quotations on a voluntary basis and to require those market makers to be firm for the amount of their displayed size. *See* NASD, Notice to Members, No. 80–61, dated November 20, 1980. *Compare* Rule 11Ac11(c)(2)).

Apart from the limited systems changes necessary to display quotation sizes, the Commission also expects various systems changes may be required to accommodate transaction reporting, even though such changes already have been implemented for third market makers who are required to report transactions in exchange traded reported securities. Accordingly, the Commission expects that the NASD will have to develop, either on its own or in conjunction with other SROs, the capability of providing vendors of securities information a real-time data stream of transaction information for OTC/NMS Securities. Thus, the Commission has adopted the Rule 11Aa3–1 amendments with a deferred effective date to provide the NASD with the necessary lead time within which to comply with the Rule's requirements.

[38] *See* BSE Letter, *supra* note 19, at 2; & NYSE Letter *supra* note 19, at 2–3. The MSE supported adopting the Rule as proposed. The Amex and SIA called for additional study of which OTC securities should be designated. Specifically, the SIA argued that the securities industry and the Commission should continue to discuss "which exclusively OTC securities are suitable for trading in whatever market structure emerges * * *." SIA Letter, *supra* note 23, at 10.

[39] NYSE Letter, *supra* note 19, at 3.

[40] Similarly, in 1978 the NSTA had recommended: "A limited number of diverse OTC stocks should be included in a pilot program at the start-up of [the] NMS. This would enable the Commission to determine whether many of the problems expressed by OTC issuers, market makers and others, because of the proposed injection of auction principles into the dealer market, would seriously impair the viability of this market." 1978 NSTA Letter, *supra* note 15, at 2. In responding to the Rule 11Aa2–1 Proposal Release, the NSTA revised its recommendation. "[T]he implementation of * * * [R]ule [19c–3] would meet our definition of 'limited,' and would also provide the trading community with a small, controlled test environment in which to study the effects of truly competitive trading." 1979 NSTA Letter, *supra* note 21, at 3. *See* Merrill Letter, *supra* note 22, at 1–2; and 1979 NASD Letter, *supra* note 21, at 2.

[41] *See* 1979 NASD Letter, *supra* note 21, at 4; 1978 NASD Letter, *supra* note 21, at 4; 1979 NSTA Letter, *supra* note 21, at 1–2; and 1978 NSTA Letter, *supra* note 15, at 2.

[42] Under the current method of reporting transactions in listed securities, last sale reports are distributed over two data streams. The first stream, the high-speed line, distributes last sale reports for all markets and does not segregate those reports by market. This line is used to service various interrogation devices which allow broker-dealers to determine the last sale for a security from any market. The second stream, the low-speed lines, is further subdivided into Networks A and B. This stream is used to service various ticker displays and is substantially slower than the high speed line because, at present, it is not possible to increase the line speed while at the same time retaining the readability of the ticker display. Accordingly, the NASD, in calling for the elimination of segregating the Networks by market, noted that, if it were necessary to segregate the tapes to ensure readability, such segregation should be done alphabetically. For a more extensive discussion of the reporting procedures for exchange traded securities, *see* Rule 11Aa3–1 Adoption Release, *supra* note 3.

[43] *See, e.g.*, NYSE Letter, *supra* note 19, at 3 ("Eligible [OTC] securities would be reported on [c]onsolidated [t]ape "C" and would, of course, be included in the [c]onsolidated [q]uotation [s]ystem.").

[44] 1979 NSTA Letter, *supra* note 21, at 1–2.

[45] 1979 NASD Letter, *supra* note 21, at 4.

[46] *See* note 14, *supra*.

views were not explicitly restated in the Rule 11Aa2–1 proceeding, the Commission recognizes that these concerns may underlie the OTC representatives' views that, if Rule 11Aa2–1 were adopted, it should be initially limited to a small group of OTC securities.

2. *Analysis.* Enhanced disclosure of trading activity always has been viewed as one of the critical objectives of an NMS.[47] For example, the Senate Committee on Banking, Housing and Urban Affairs, in its report on the 1975 Amendments, concluded:

> In the securities markets, as in most other active markets, it is critical for those who trade to have access to accurate, up-to-the-second information as to the prices at which transactions in particular securities are taking place (*i.e.*, last sale reports) and the prices at which other traders have expressed their willingness to buy or sell (*i.e.*, quotations).[48]

Indeed, the Conference Report on the 1975 Amendments stated that "communications systems, particularly those designed to provide automated dissemination of last sale reports and quotation information with respect to securities, will form the heart of the" NMS.[49] Accordingly, Section 11A(a)(1)(c)(iii) of the Act sets forth as one goal of an NMS ensuring "the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities." Moreover, this goal of the NMS reflects fundamental principles of the federal securities laws concerning the protection of investors and the maintenance of fair and orderly markets through full and fair disclosure of information relating to trading in the nation's securities markets.[50]

With respect to the protection of investors, last sale information increases the ability of investors to monitor their broker-dealer's efforts to achieve best execution[51] of their orders. For example, while it may be possible in most instances for an investor to determine, solely on the basis of current NASDAQ quotation information, whether his broker-dealer achieved best execution, his ability to do so, especially with respect to actively traded securities and orders of more than minimal size, is limited.[52] Similarly, transaction information also will assist the Commission's and NASD's oversight responsibilities with respect to the OTC market generally.

In addition to these benefits, inclusion of OTC/NMS Securities in the NMS disclosure facilities should provide the securities industry, issuers and the Commission with valuable experience regarding transaction reporting for OTC securities. For example, inclusion of a limited number of securities at this time will provide the OTC market participants with an opportunity to adapt to, and evaluate the effects of, disclosure prior to determining whether it would be appropriate to expand the number of OTC securities subject to transaction reporting.[53] Inclusion also will provide the Commission, the NASD and OTC issuers and market makers with an opportunity to monitor, assess and evaluate the effects of increased disclosure on the OTC markets prior to determining whether to include OTC/NMS Securities in other NMS facilities and initiatives which are dependent on disclosure.[54]

In this regard, the Commission does not believe that the limited experience to be gained regarding OTC transaction reporting in 19c–3 Securities is directly comparable to transaction reporting for OTC/NMS Securities. While the adoption of Rule 19c–3 will provide the industry with some experience regarding the willingness of OTC market makers to provide a market in an environment characterized by transaction reporting,[55] the presence of other factors unique to Rule 19c–3 Securities, notably competition from exchange specialists, would tend to preclude drawing any conclusion regarding the effects of last sale reporting in securities traded solely in the OTC market.[56] In addition, Rule

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[47] *See, e.g.*, SEC, Future Structure of the Securities Markets, at 8 (February 2, 1972), 37 FR 5286, 5287.

[48] Senate Report, *supra* note 8, at 9, [1975] U.S. Code Cong. & Ad. News at 187. *CF.* 121 Cong. Rec. H11,742 (daily ed. April 24, 1975) (remarks of Representative McCollister, one of the five conference managers on the part of the House) (The NMS "shall include as a minimum, a transactional reporting system [and] a composite quotation system. . . ."), and 121 Cong. Rec. S15,371 (daily ed. May 20, 1975) (remarks of Senator Proxmire, one of the five conference managers on the part of the Senate) ("[T]he foundation for the [NMS] . . . is a competitive network of securities markets and securities firms linked electronically by advanced communications systems. . . . Through this communications network, investors, wherever located, will have immediate access through their brokers to essential price and quote information and to the markets.").

[49] Committee on Conference, *Conference Report to Accompany S. 249: Securities Acts Amendments of 1975*, H. Conf. Rep. No. 94–229, 94th Cong., 1st Sess., at 93, (1975) ("Conference Report"), *reprinted in*, [1975] U.S. Code Cong. & Ad. News 321, 324.

[50] In this connection, the Commission would note that its decision to require additional disclosure regarding trading activity in OTC securities is not justified solely by reference to its duty "to facilitate the establishment of" an NMS. Rather, enhanced disclosure of OTC trading activity is in accord with the Commission's broader responsibilities to ensure full and fair disclosure regarding securities generally. Sections 2, 6(a), 6(b)(5), 9, 10, 11A(a)(1)(C), 11A(a)(2), 11A(b), 11A(c)(1)(B), 15(c), 15A(a), 15A(b)(6), 17(a) and 23(a) of the Act, 15 U.S.C. §§ 78b, 78f(a), 78f(b)(5), 78i, 78j, 78k–1(a)(1)(c), 78k–1(a)(2), 78k–1(b), 78k–1(c)(1)(B), 78o(c), 78o–3(a), 78o–3(b)(6), 78q(a) and 78w(a). *See* Rule 11Aa2–1 Proposal Release, *supra* note 5, at 30–31, 44 FR at 36917, and Rule 11Aa3–1 Adoption Release, *supra* note 3, at 3 n.6, 45 FR at 12378 n.6.

[51] See, *e.g.*, Newman v. Smith [1974–75] Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶95,078 at 97,782, 97,783 (S.D.N.Y., No. 70 Civ. 1987 WCC, April 24, 1975), and January Statement, *supra* note 11, at 24 n.30, 43 FR at 20363 n.30. Similarly, transaction information also will assist investors in determining whether OTC market makers have overreached their customers in executing a particular transaction. The Rule 19c–3 Adoption Release defined the term "overreaching" as: [T]he possibility that broker-dealer firms may take advantage of their retail customers by executing retail transactions as principal at prices less favorable to those customers than could have been obtained had those firms acted as agent. Rule 19c–3 Adoption Release, *supra* note 25, at 19 n.33, 45 FR at 41128 n.33.

[52] First, because NASDAQ quotations do not presently permit the display of size, an investor may not be able to determine if his order for an excess of 100 shares received the best possible price. Second, in a volatile market, an investor may be unable to determine, solely by references to quotations, whether movements in quotations are caused by substantial trading activity or some other factor. Accordingly, while an investor may depend on quotations to identify whether a broker-dealer flagrantly has failed to achieve best execution, without last sale reports it is more difficult for an investor to compare the quality of executions provided by various broker-dealers in determining which broker-dealer provides the best service.

Even in those situations where the inside quotation is an eighth of a point (*e.g.*, 20 to 20⅛) last sale reports can provide useful information. For example, it would be useful for an investor to be aware of whether the preponderance of recent transactions were on the buy side (*i.e.*, 20) or sell side of the market (*i.e.*, 20⅛). In addition, because such narrow quotation spreads generally reflect active trading interest, in those securities a greater number of transactions outside the retail size quotation (*i.e.*, block transactions away from the market at, say, 19¾) might be expected. Here a record of recent block transactions would provide useful information in determining the appropriate discount from or premium over the retail size quotation for the next block trade.

[53] In this connection, the Commission would note that the Rule 11Aa2–1 Proposal Release set forth alternative designation criteria which would have included progressively more OTC securities at each particular numerical level. *See* Rule 11Aa2–1 Proposal Release, *supra* note 5, at 32–43, 44 FR at 36917–19. In adopting the relatively more stringent designation criteria, the Commission has not withdrawn the outstanding proposals to expand the number of OTC securities designated as NMS Securities. Rather, the Commission is prepared to revisit the question of which OTC securities should be designated as NMS Securities once it has had an opportunity to monitor the effects of last sale reporting for the initial set of OTC/NMS Securities and in light of its ongoing efforts to monitor other NMS facilities and initiatives (*see* text accompanying notes 102–49 *infra*.)

[54] *See* text accompanying notes 102–49 *infra*.

[55] *See Rule* 19c–3 Adoption Release, *supra* note 25, at 17, 45 FR at 41128.

[56] Both the NASD and NSTA also argued that, before Rule 11Aa2–1 is adopted, an interface between the ITS and NASDAQ, as enhanced to include an order routing and execution capability, should be in place. While the creation of an automated ITS/NASDAQ interface may influence the willingness of OTC market makers to provide a market in an integrated trading environment, *i.e.*, where a security is traded both on an exchange and in the OTC market, such an interface does not relate to the question of whether transaction reporting is appropriate in an exclusively OTC market.

19c–3 itself is limited to certain securities listed on an exchange after April 26, 1979, and, therefore, would not ensure that the most actively traded OTC securities would be subject to transaction reporting. The Commission, therefore, continues to believe that it is important to gain some initial experience with transaction reporting in an exclusively OTC market.

The Commission recognizes the concerns which various OTC representatives have expressed in the past (although not in the Rule 11Aa2–1 proceeding) regarding whether transaction reporting will reduce the incentives for market making in OTC securities. The Commission does not believe, however, that these concerns outweigh the benefits of last sale reporting, at least for the most actively traded OTC securities. As discussed more fully below,[57] the Commission has adopted, as part of the tier 1 designation criteria, an average monthly share volume criterion of 600,000 shares per month. Accordingly, the volume criterion, in conjunction with the other criteria employed by the Rule,will ensure that the initial designation of OTC/NMS Securities will include only the most actively traded [58] and liquid OTC securities. In addition, the Commission continues to believe that, as the NMS evolves and OTC securities increasingly are included in additional NMS facilities and initiatives,[59] it will be of critical importance that the industry and the Commission obtain practical experience with particular facilities and initiatives in discrete environments where the risk of disrupting the delicate trading mechanisms of the markets are minimized. In this regard, the Commission believes that by including a limited number of actively traded OTC securities in the NMS disclosure facilities [60] the industry and Commission will be in a better position to refine and texture future developments regarding OTC/NMS Securities.[61]

Finally, the Commission does not believe that the NASD's concerns regarding whether OTC last sale reports are reported through a separate data stream or included in a single system, with securities segregated as necessary in alphabetical order, should preclude the immediate designation of the most actively traded OTC securities. This concern addresses the method of reporting OTC transactions,[62] not whether those transactions should be reported. Moreover, the Commission does not believe it is appropriate, at this time, to require revision of existing tape reporting procedures as suggested by the NASD. The premise of the NASD's concern is that no "distinction as to marketplace" is appropriate in an NMS.[63] While this premise may be an ultimate goal of an NMS, at the present stage of the evolution of an NMS, substantial numbers of securities, including all of the OTC securities which will be designated as NMS Securities, are only actively traded in one market.[64] Therefore, it would seem anomalous to require that, if a broker-dealer were only interested in obtaining OTC last sale reports, such broker-dealer also would be required to receive Amex and NYSE last sale reports.[65] Accordingly, at least as an initial matter, the Commission is not inclined to believe that it will prove necessary to realign the entire method of tape reporting for all exchange traded securities so that transaction reporting can commence for a limited number of OTC securities. Lastly, the Commission would note that the amendment to Rule 11Aa3–1 adopted today does not require the NASD to provide for transaction reporting in NMS Securities through the consolidated system.[66] Thus, if the NASD is unable to reach a satisfactory agreement with the other CTA participants regarding reporting procedures for OTC/NMS Securities, the NASD may determine to develop its own capability to provide transaction information directly to vendors.[67]

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[57] *See* text accompanying note 99, *infra*.

[58] As noted by the NYSE, if the standards associated with this volume criterion were applied to NYSE listed securities, only about 11% of those securities (all of which are, of course, subject to transacting reporting) would meet this criterion. *See* not 33, *supra*. Thus, both the Commission and the industry are assured that those OTC securities which are initially designated are sufficiently traded that they would otherwise be capable of grading in an environment characterized by last sale reporting.

[59] *See* text accompanying notes 102–49, *infra*.

[60] The Commission also believes that it is appropriate to require that OTC securities designated as NMS Securities under the tier 2 criteria also be subject to real-time transaction reporting. In light of the Rule's requirement that no OTC security will be designated as an NMS Security under the tier 2 criteria unless the issuer of such security seeks to have its securities designated, the Commission believes that issuers will be in a position to evaluate, and arrive at a particularized judgment regarding, whether they believe the markets for those securities will be enhanced by transaction reporting. Moreover, the Commission believes that, in light of the 100,000 shares per month volume criterion for NMS Securities designated under tier 2, the markets for those securities are sufficiently liquid to ensure that transaction reporting would not impose significant additional risks for OTC market makers. The Commission has, however, delayed the effective date of the tier 2 provisions of the Rule until August 1, 1982, to ensure that the NASD and the OTC market will have had a sufficient opportunity to adapt to the disclosure of transaction information for securities designated under the tier 1 criteria. *See* text accompanying notes 102–49 *infra*.

[61] Today the Commission also has amended Rule 11Aa3–1 under the Act to require transaction reporting for OTC/NMS Securities.

[62] In this regard, the Commission noted in proposing Rule 11Aa2–1 that a plan for reporting transactions in OTC/NMS Securities would need to address various specific implementation issues. For example, the Commission observed that transactions effected on an exchange were reported on a "gross" basis (*i.e.*, exclusive of any commission which may be charged to the actual customer in connection with the transaction), whereas principal transactions effected OTC were reported on a "net" basis (*i.e.*, exclusive of any commission, commission equivalent or differential, but inclusive of any retail mark-up or mark-down) and requested comment regarding the effects of this disparity on transaction reporting for NMS Securities traded solely in the OTC market. *See* Rule 11Aa2–1 Proposal Release, *supra* note 5, at 52–53 n.102, 44 FR at 36921 n.102. *See generally, id.*, at 45, 50 n.98, 52 n.101, and 55–56, 44 FR at 36919, 36920 n.98, 36921 n.101 and 36921. Subsequently, the NASD has amended its reporting procedures for OTC transactions in exchange traded reported securities (*i.e.*, third market transactions) to require gross reporting of OTC principal transactions. *See* Securities Exchange Act Release No. 16960 (July 7, 1980), 45 FR 47291. In addition, present NASD reporting procedures for third market transactions permit an OTC broker-dealer who accounts for less than 1,000 shares or $25,000 on at least five of the ten preceding business days to report its third market transactions on a weekly basis. *See* NASD, By-Laws, Art. XVIII, Sch. G, at § 1(b)(6) *NASD Manual* (CCH) ¶ 1681. The Commission expects that the NASD will adopt similar rules for reporting transactions in OTC/NMS Securities.

[63] 1978 NASD Letter, *supra* note 21, at 4.

[64] *But cf.* text accompanying notes 134–49, *infra* discussing the possibility of granting exchanges unlisted trading privileges in OTC/NMS Securities.

[65] The significance of this possibility is highlighted by the fact that, even with respect to exchange traded securities, eight percent of the subscribers to Network A do not subscribe to Network B. *See* Letter from Robert C. Hall, Chairman, CTA, to George A. Fitzsimmons, Secretary, SEC, at 19, dated January 11, 1979, contained in Public File No. S7–758.

[66] In this connection, it should be noted that the Rule permits the NASD to meet its obligation to submit a designation plan either by including the designation procedures and maintenance criteria in its own transaction reporting plan or, if it wishes to coordinate its designation procedures with other SROs, by including those provisions in amendments to either the Consolidated Quotation ("CQ") or CTA Plans. In the event that such amendments are pursued, the Commission would, of course, expect the NASD to be responsible for administrative control over, and expenses and revenues from, the provision of transaction and quotation information for OTC/NMS Securities. In addition, irrespective of the method of compliance selected by the NASD, the Commission is prepared to consider any single plan or amendment as being deemed to comply with the formal filing requirements of both Rule 11Aa2–1 and 11Aa3–1, assuming such plan or amendment otherwise complies with the substantive requirements of those Rules. Thus, the NASD would be able to file in a single document a plan or amendment setting forth designation procedures, procedures by which such designation would be revoked or suspended (*see* note 97, *infra*), and procedures for transaction and quotation reporting.

[67] In this regard, the Commission wishes to make clear that, if the NASD so determines, it may build, operate and control its own computer-communication facilities for the dissemination of OTC transaction and quotation information. At the same time, however, the Commission would caution that a subsequent Commission determination to grant exchanges unlisted trading privileges for OTC securities would result in transactions in such

In summary, the Commission believes that, on balance, the benefits of enhanced disclosure for the most actively traded OTC securities outweigh any potential adverse consequences associated with such disclosure. Enhanced disclosure for actively traded OTC securities is, in many respects, a necessary predicate for the inclusion of those securities in an NMS. Accordingly, the Commission has determined to require the designation of a limited number of actively traded OTC securities as NMS Securities and to require that those Securities be included in the NMS disclosure facilities.

C. Role of Issuers

As proposed, Rule 11Aa2–1 contemplated that securities meeting the tier 1 designation criteria would be designated as NMS Securities irrespective of any action by the issuer to obtain or oppose such designation. In addition, a further class of Potential NMS Securities would have been eligible for designation upon application by either an issuer or two or more market centers to a designation body. With respect to this latter group of securities, the designation body would have provided a forum in which the views of issuers, markets makers and other interested securities market participants could have been considered regarding any designation determination.

1. *Comments.* In response to the Rule 11Aa2–1 Proposal Release, the ASCS, NASD and NSTA argued that issuers should have an absolute veto over whether a security is designated as an NMS Security.[68] The ASCS, for example, argued that, because "issuers and investors have a commonality of interest," [69] issuers would not "arbitrarily" [70] decide whether designation is appropriate. In addition, the ASCS stated that in the type of NMS it envisions,[71] most issuers would opt for NMS designation. Similarly, the NASD argued "that the companies who have a fiduciary responsibility to their shareholders to insure that the market for their shares has depth and liquidity should have a choice as to whether or not their shares are traded in the" NMS.[72] To the same effect the NSTA stated that "[c]onsent of the issuers should be required, because we believe that the trading market in a security should remain the responsibility of the issuer as well as that of the financial community." [73]

2. *Analysis.* The Commission believes that issuers should not be allowed to veto designation of their securities as NMS Securities.[74] Indeed, the legislative history of the 1975 Amendments suggests that such a veto power would be inconsistent with the intent of Congress with respect to the development of an NMS and contrary to the Act. For example, the *Securities Industry Study* [75] which provided, in part, the analytical basis for the 1975 Amendments concluded:

> The proposition that the issuer of a security has a right to limit the markets in which investors can trade its securities finds no support either in past practice in the securities markets or in Congressional or SEC [76] policy. In fact, the consistent approach has been that trading in a security should be permitted in any market unless such trading would contravene some important policy laid down in the * * * Act. * * * The Subcommittee believes that restriction of trading in securities to a single market is a drastic measure, to be legislated only when the public interest clearly requires it. It is not a prerogative of corporate management, which has no legitimate interest in restricting the trading opportunities of investors who have acquired a company's shares.[77]

Similarly, in commenting on the role of OTC securities in an NMS, the Senate Committee on Banking, Housing and Urban Affairs, stated that the facilities of an NMS "should be afforded to investors in all securities with suitable characteristics and should not be dependent upon the decision of corporate management to 'list.'" [78] Thus, the Commission does not believe that the opportunity for public investors and other securities market participants to be provided the benefits of NMS facilities and initiatives should be solely dependent on a decision by corporate management to seek designation.[79]

Nevertheless, while the Commission believes that it would be inappropriate for issuers to preclude the inclusion of the most actively traded OTC securities in the NMS disclosure facilities, the Commission does believe it is appropriate to provide issuers with a significant role in the designation process at this stage in the evolution of an NMS.[80] Thus, although the Rule, as adopted, requires that those securities which meet the tier 1 designation criteria must be included in the NMS disclosure facilities, securities which substantially meet the tier 2 designation criteria would not be automatically designated. Rather, Potential NMS Securities only would be designated as NMS Securities, and included in the

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securities occurring both on exchanges and in the OTC market (*see* text accompanying notes 134–49 *infra*), and it would therefore be necessary to provide to vendors of securities information a consolidated data stream of transaction and quotation information from both types of markets. In that event, the Commission expects that the NASD will file, jointly with other SROs, CTA Plan amendments contemplating the provision of such consolidated data.

[68] ASCS Letter, *supra* note 20, at 4–8; 1979 NASD Letter, *supra* note 21, at 3; and 1979 NSTA Letter, *supra* note 21, at 2.

[69] ASCS Letter, *id.*, at 4.

[70] *Id.* at 7. The NSTA also believed that, as corporate fiduciaries, issuers would exercise any designation authority they might have in a responsible manner. 1979 NSTA Letter, *supra* note 21, at 3.

[71] The ASCS supported an auction-type NMS with a consolidated limit order book, including (1) stock allocation procedures among market makers; (2) affirmative obligations for market makers, *i.e.*, (a) parameters for trading, (b) performance tests and (c) review procedures; and (3) a national market board including representatives of issuers. *See* ASCS Letter, *supra* note 20, at 2–3.

[72] 1979 NASD Letter, *supra* note 21, at 3.

[73] 1978 NSTA Letter, *supra* note 15, at 1. These views reaffirmed the long-held beliefs of various OTC representatives. *See* 1978 NASD Letter, *supra* note 21, at 3–4, National Association of OTC Companies ("NAOTC"), Statement on the National Market System, at 3–4, dated May 26, 1978, contained in Public File No. S7–735–A; and Statement by Oliver J. Troster, President, New York Security Dealers Association, in *Trading in Unlisted Securities Upon Exchanges*, Hearings on S. 4023 bef. the Sen. Comm. on Banking & Currency, 74th Cong., 2d Sess., pt. 3, at 106, 108 (March 12, 1936) ("We must also examine the statement that the management of a corporation should not have final authority as to the determination of the market place for its securities. I submit that management alone should have that authority.").

[74] *See* Rule 11Aa2–1 Proposal Release, *supra* note 5, at 24–26, 44 FR at 36916.

[75] Subcomm. on Securities of the Senate Comm. on Banking, Housing & Urb. Affs., *Securities Industry Study*, 92d Cong., 1st Sess. (Comm. Print 1973) ("Senate Study").

[76] *CF., e.g., Trading in Unlisted Securities Upon Exchanges*, Hearings on S. 4023 bef. the Sen. Comm. on Banking & Currency, 74th Cong., 2d Sess., pt. 2, at 42–45 (February 26, 1936) (Statements by Chairman Landis); and SEC, Report on *Trading in Unlisted Securities Upon Exchanges* 9–10, 16, 18, and 21 (1936) ("[T]he belief of many issuers that they should have the right to determine the marketplace for their securities * * * has been examined and rejected." *Id.* at 12 n. 9).

[77] Senate Study, *supra* note 75, at 120 & 121. The legislative history of the 1975 Amendments makes clear that the Congressional directive to designate NMS Securities was intended to implement this conclusion of the Senate Study. *See Summary of Principal Provisions of Securities Acts Amendments of 1975, S. 249*, 94th Cong., 1st Sess. (Comm. Print January 1975), entered into the record by Senator Williams, *in Securities Acts Amendments of 1975*, Hearings on S. 249 bef. the Subcomm. on Securities of the Senate Comm. on Banking, Housing & Urb. Affs., 94th Cong., 1st Sess., at 37, 88 (Comm. Print 1975).

[78] Senate Report, *supra* note 8, at 19, [1975] U.S. Code Cong. & Ad. News at 197.

[79] *CF.* Ludlow Corp. v. SEC, 609 F.2d 704, 708 (D.C. Cir. 1979) ("The legislative history of section 12(f)(2) [of the Act] does indicate that Congress did not want an issuer to have exclusive power to control which markets may trade the issuer's stock.").

[80] As proposed, Rule 11Aa2–1 would have permitted two or more market centers which traded a security or proposed to trade a security to submit an application to a designation body to have that security designated as an NMS Security. The Commission has determined that, at this stage in the evolution of an NMS and because Rule 11Aa2–1 will, for the first time, result in the inclusion of OTC securities in the NMS disclosure facilities, such designation applications should, as an initial matter, be limited to the issuer of a security.

NMS disclosure facilities, if the issuer of a Potential NMS Security applied to have such security so designated.[81] In this manner, the two tier approach allows for the incremental expansion of OTC transaction reporting, if issuers, after an opportunity to evaluate the practical experience with respect to such reporting, determine to seek such additional disclosure.[82]

The Commission wishes to emphasize, however, that, as the NMS evolves, it may be desirable to include a substantially larger number of OTC securities in the NMS disclosure facilities than will be initially designated. After the securities industry, OTC issuers and the Commission have had an opportunity to evaluate the effects of enhanced disclosure in the OTC market, as well as the effects of the other NMS facilities and initiatives which are presently ongoing,[83] the Commission will reexamine the question of whether it is appropriate to expand the number of OTC/NMS Securities designated under the tier 1 criteria.[84]

D. Designation Criteria

As proposed, the Rule set forth various criteria for the designation of a security as an NMS Security. These criteria related both to the issuer of a security (*e.g.*, the net tangible assets and capital and surplus of an issuer [85]) and the trading charactertistics of a particular security [86] (*e.g.*, average share volume and multiple trading [87]). In proposing these criteria and the specific numerical levels used with respect to each such criterion, the Commission attempted to rely, to the maximum extent practicable, on its prior experience with the various exchange listing requirements,[88] the NASD's requirements for the inclusion of a security in NASDAQ [89] and the Federal Reserve Board's ("FRB") requirements regarding which OTC securities are eligible for margin credit.[90] In this manner, the Commission was able to identify criteria and specific numerical levels which, through prior usage, had been shown to be accurate indicators of securities which enjoy sufficient liquidity and trading interest to ensure that they would benefit from inclusion in the NMS disclosure facilities.[91]

1. *Comments.* Commentators generally did not focus with particularity on either the proposed criteria or the numerical levels selected for each criterion. Moreover, to the extent the commentators did focus on the criteria or numerical levels, their comments generally did not address the appropriateness of individual criteria or numerical levels, but were general statements reflecting their views regarding the number of and particular securities which should be designated. For example, the general support of CTA reporting standards and criticism of high volume and multiple market standards expressed by the exchanges [92] was, in effect, support of their position that all exchange traded reported securities should be designated. Similarly, the support Merrill and the NSTA expressed for a high average share volume standard [93] reaffirmed their view that (1) it was premature to adopt the Rule and (2), if the Rule were adopted, it initially should apply to only a limited number of securities.

2. *Analysis.* The Commission understands the concerns expressed by various exchanges that use of high volume and multiple market standards might unnecessarily exclude significant numbers of reported securities.[94] However, given the limited scope of the Rule, as adopted,[95] it would not appear that these comments should outweigh the concerns expressed by the NASD and other OTC representatives that, at

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[81] In this connection, the Commission would note that several commentators objected to the two tier designation process as being unnecessary. (*See* Amex Letter, *supra* note 19, at 3; ASCS Letter, *supra* note 20, at 9; Merrill Letter, *supra* note 22, at 3; 1979 NASD Letter, *supra* note 21, at 3; 1979 NSTA Letter, *supra* note 21, at 2–3; NYSE Letter, *supra* note 19, at 5.) As noted above, however, the Commission believes that the two tier approach is necessary to provide issuers with the ability to determine, as an initial matter, whether to seek designation. The two tier approach appears to be the most practical manner for the Commission to meet its dual objectives of moving carefully to require inclusion in the NMS disclosure facilities of those OTC securities which definitely would benefit from such inclusion while still providing flexibility to permit issuers of other OTC securities to apply for designation if they believe it will benefit the markets for those securities. In addition, the Commission believes that commentators have misperceived the significance of the two tier approach. The two sets of criteria only relate to the designation procedures applied. Once designated, securities will not be differentiated on the basis of whether they did or did not meet the tier 1 criteria. Accordingly, the inclusion of less stringent tier 2 criteria actually will enhance the ability of an OTC issuer to ensure that its securities are designated as NMS Securities.

[82] *Cf.* text accompanying notes 28–29, *supra*.

[83] *See* text accompanying notes 102–49, *infra*.

[84] *See* note 53, *supra*.

[85] In addition, the proposed Rule also contained criteria relating to the total assets and earnings of an issuer. As adopted, these two criteria have been deleted from the Rule. In the Rule 11Aa2–1 Proposal Release, *supra* note 5, at 35 n.70, 44 FR at 36918 n.70, the Commission noted that usage of both a total assets and net tangible assets criterion might be "in large part redundant and unnecessary."

[86] The Rule, as proposed, also contained additional proposed criteria relating to the number of publicly-held shares, the market value of publicly-held shares, the price per share and the number of holders of 100 shares or more.

[87] With respect to the multiple trading criterion, the only adverse comment received was from the SIA. *See* SIA Letter, *supra* note 23, at 8–9. However, because this comment was related to exchange traded securities it is not necessary to resolve this issue regarding the designation of OTC/NMS Securities. Nevertheless, the Commission would note that, even if it were ultimately to limit exchange traded NMS Securities to those which are multiply traded, the Commission would continue to expect that securities traded on only one exchange still would be included in the NMS disclosure facilities, *i.e.*, the consolidated transaction and quotation systems. *See* note 34, *supra*.

[88] *See* Amex, *Company Guide*, §§ 101 *et seq.*; BSE Rules, Chapter XXVII, § 1, *BSE Guide* (CCH) ¶ 2260; Cincinnati Stock Exchange, Inc. ("CSE"), By-Laws, Art. IV, § 1.3; MSE Rules, Art. XXVIII, Rule 7, *MSE Guide* ¶ 1897; NYSE, *Company Manual* § B–1 *et seq.*; Pacific Stock Exchange, Inc. ("PSE"), Rule 1, § 3(b), *PSE Guide* (CCH) ¶ 3025; and Philadelphia Stock Exchange, Inc. ("Phlx"), Rule 803, *Phlx Guide* (CCH) ¶ 2803.

[89] NASD, By-Laws, Art. XVI, Sch. D, pt. II, *NASD Manual* (CCH) ¶ 1653A.

[90] Board of Governors of the Federal Reserve System, Reg. T & Supp., 12 CFR 220.8(h). Indeed wherever possible the Commission has attempted to conform its designation criteria and standards with the FRB's requirements.

[91] *See* text accompanying notes 99–101, *infra*.

[92] In brief, the BSE and NYSE supported the use of CTA reporting standards (*i.e.*, Amex listing requirements) for the designation of OTC/NMS Securities. (BSE Letter, *supra* note 19, at 2; and NYSE Letter, *supra* note 19, at 2–3.) The Amex and SIA, while supporting the use of CTA reporting standards for the designation of exchange traded securities, argued that additional study was necessary to determine which OTC securities should be designated. Amex Letter, *supra* note 19, at 4; and SIA Letter, *supra* note 23, at 9–10. The MSE supported "prompt adoption" of the Rule as proposed. MSE Letter, *supra* note 19, at 4.

[93] *See* note 33, *supra*.

[94] In addition, a separate matter which should be noted is the Commission's determination to apply the same designation criteria to common stocks, preferred stocks, and warrants. In proposing Rule 11Aa2–1, the Commission sought comment regarding whether preferred stocks and warrants should be subject to the same designation criteria as common stock. Rule 11Aa2–1 Proposal Release, *supra* note 5, at 38 n.78, 44 FR at 36918 n.78. The Commission did not receive any comments which directly addressed this issue. However, at this stage in the evolution of an NMS, the Commission believes that it is appropriate to apply uniform standards to all types of securities. In this manner, the Commission can ensure that those securities which are designated definitely will benefit from inclusion in the NMS disclosure facilities. Once the industry and the Commission have obtained experience with trading activity under the Rule as adopted, it will be appropriate to reexamine whether differential standards are appropriate.

[95] *See* notes 28–29, *supra*. The Commission would note, however, that it has determined not to replace the price per share, average trading volume and number of round lot holders criteria with an average dollar volume criterion as suggested by the NASD. *See* 1979 NASD Letter, *supra* note 21, at 3. Under such a criterion, OTC securities might be designated which enjoyed only limited national investor interest and infrequent trading activity (*e.g.*, securities with a high price per share and primarily institutional investor interest). While the Commission has not determined that such securities ultimately should not be designated, given that the primary near-term effect of designation will be to subject, for the first time, a small group of OTC securities to real-time transaction reporting, the Commission believes it is appropriate to limit that first step to those securities which would appear to clearly benefit from inclusion in the NMS disclosure facilities.

least at this time, a limited number of OTC securities should be designated. Accordingly, the Commission has in large part (subject to elimination of certain redundant or unecessary criteria [96] and certain technical modifications of others [97]) retained most of the proposed criteria.

With respect to the levels of standards, the Commission believes that the two tier approach responds to most of the concerns raised by the OTC community regarding the possible premature inclusion of OTC securities in the NMS disclosure facilities. By varying the numerical levels set for the tier 1 and tier 2 criteria,[98] the Commission and the industry will be able to gain experience with transaction reporting for a limited number of OTC securities (*i.e.*, tier 1 [99]) while issuers of Potential NMS Securities (*i.e.*, tier 2 [100]) will be permitted to determine whether they will seek to have those securities so designated. Moreover, as market participants, issuers and the Commission gain experience with the trading characteristics of NMS Securities, it will be possible to further refine the level of standards in the future.[101]

III. Inclusion of OTC/NMS Securities in Additional NMS Facilities and Initiatives

A. Introduction

The Commission's action today, in designating a small number of OTC securities as NMS Securities and thereby including these Securities for the first time in a real-time transaction reporting system, is only one in a series of steps, each of which must be monitored and assessed in relation to one another, toward the development of an NMS. On June 11, 1980, the Commission adopted Rule 19c–3 which removed off-board trading restrictions for a limited number of exchange traded securities and thereby initiated a significant experiment which may well have a major impact on the future course of the NMS by providing a concrete opportunity to observe whether it is possible to achieve fair competition between exchange and OTC market makers. In response to the proposal of this Rule, on April 28, 1979, the NASD began the process of enhancing its NASDAQ System to include, among other things, an order routing and execution capability, the so-called Computer Assisted Execution System ("CAES"), which will be the first such System linking OTC market makers. Most recently, on February 5, 1981, the Commission has published for public comment an order which would require the creation of an automated interface between this System and the exchange community which is currently linked through the ITS.[102]

Similarly, the industry, pursuant to Commission urging, has made significant progress toward achieving a regulatory environment which is conducive to the operation of these linkages. Specifically, the Commission understands that the ITS participants have agreed "in principle" to a so-called "trade-through rule" to ensure that the best displayed quotation in the System has priority over other quotations.[103] Moreover, in conjunction with their agreement to pursue an automated interface between the ITS and the NASD's CAES, the ITS participants have undertaken to address the difficult issue of internalization.

Each of these facilities and regulatory initiatives has an important bearing on future Commission consideration of designation questions. In addition to enhanced disclosure, an important element of the NMS is the development of maximum opportunities for fair competition among and between market centers, brokers and dealers. This element of the NMS often has been defined as providing the maximum opportunity for order interaction within an environment characterized by equal regulation, where practicable, of all similarly situated market participants. Thus, the Commission's ongoing efforts to monitor and evaluate existing facilities designed to increase order interaction and enhance competition will have a significant impact on Commission consideration of which exchange traded or OTC securities are appropriate for inclusion in those facilities. In particular, as discussed more fully below, the Commission will consider in the future whether OTC order interaction could be enhanced by the inclusion of OTC/NMS Securities in CAES and what steps, if any, are necessary to ensure that OTC broker-dealers obtain best execution of their customers' orders. Similarly, any future consideration of whether exchange

[96] The Commission has determined to retain the net tangible assets criterion while deleting the total assets criterion, because the net tangible assets criterion should provide a more objective assessment of an issuer's assets (*e.g.*, net tangible assets would not include valuation of an issuer's "good will"). Furthermore, the Commission also does not believe an earnings criterion is necessary because such a criterion might preclude designation of various securities which are actively traded and whose issuers have substantial assets but limited earnings. *Cf.* 1979 NASD Letter, *id.*, *But cf.*, 1979 NSTA Letter, *supra* note 21, at 3; and 1978 NSTA Letter, *supra* note 15, at 2.

[97] In a related matter, it should be noted that the Rule, as proposed and as adopted, contemplates that the criteria and standards by which a security's NMS designation would be suspended or revoked (so-called maintenance criteria) would be set forth in the designation plan (*see* note 18, *supra*). Those exchanges which supported the usage of CTA reporting standards (*see* text accompanying notes 11–12, *supra*) apparently also supported this approach to maintenance criteria because the CTA Plan itself incorporates by reference Amex delisting standards to determine whether an exchange traded security should continue to be reported. In addition, the NASD agreed that the designation body should have "authority to establish procedures for suspending from [NMS] status any security not in compliance with the maintenance standards." 1979 NASD Letter, *supra* note 21, at 2. Moreover, the NASD proposed maintenance criteria which were substantially similar to those in the CTA Plan. *Compare* CTA Plan, *supra* note 12, § VI(c), at 24–25, *and* Amex, *Company Manual* § 1003, at 231–34, *with* 1978 NASD Letter, *supra* note 21, at 5. However, the NASD further argued "that the maintenance standards should be specifically set forth in the Rule * * *." 1979 NASD Letter, *id.*, at 2.

The Commission preliminarily agrees that it would be appropriate to base the maintenance criteria for OTC/NMS Securities on the CTA Plan's maintenance criteria, modified to reflect any unique attributes of Rule 11Aa2–1 or the OTC market. However, the Commission does not believe it is necessary to set forth such criteria in Rule 11Aa2–1. Rather, it would appear that it would be easier to administer and modify those criteria if they were contained in the designation plan. The Commission would note, however, that, if the NASD determines to file a designation plan in the form of an amendment to the CTA Plan (*see* note 66, *supra*) and if the NASD further seeks to have that Plan's maintenance criteria amended to reflect the attributes of OTC/NMS Securities, it would expect the CTA to consider such revisions with due deference to the NASD's special responsibilities and expertise regarding the designation of OTC/NMS Securities. Finally, any such maintenance criteria should be included in the designation plan filed for Commission approval.

[98] *Cf.* note 53, *supra*.

[99] Under the tier 1 criteria, an OTC security would be automatically designated as an NMS Security, if it met the following numerical standards: (1) $2,000,000 in net tangible assets; (2) $1,000,000 of capital and surplus; (3) 500,000 shares publicly-held, (4) publicly-held shares with a market value of $5,000,000; (5) price per share of $10; (6) average monthly trading volume of 600,000 shares; (7) 1,200 holders of record and (8) four or more market makers. Based on 1979 data supplied by the NASD, it appears that approximately 40 OTC common stocks would meet both the price per share and volume criteria of tier 1.

[100] Under the tier 2 criteria, an OTC security would be a Potential NMS Security, if it substantially met the following numerical standards: (1) $2,000,000 in net tangible assets; (2) $1,000,000 of capital and surplus; (3) 250,000 shares publicly-held; (4) publicly-held shares with a market value of $3,000,000; (5) price per share of $5; (6) average monthly trading volume of 100,000 shares; (7) 400 holders of record; and (8) four or more market makers. Based on 1979 data supplied by the NASD, it appears that approximately 454 OTC common stocks would meet both the price per share and volume criteria of tier 2.

[101] *See* text accompanying notes 102–49, *supra*.

[102] *See* Securities Exchange Act Release No. 17516 (February 5, 1981), 46 FR ——.

[103] The ITS participants also have made some progress toward developing a Limit Order Information System; however, implementation of that System is now substantially behind schedule. The Commission urges the ITS participants to move forward with implementation of this facility.

markets should be permitted to trade OTC securities must be based on an evaluation of the character of competition between the OTC and exchange markets in exchange-traded securities as well as the ability of existing linkage facilities to provide for order interaction.

Thus, the following discussion,[104] which explores a number of possible further issues concerning OTC/NMS Securities, should not be viewed in isolation from the efforts to facilitate the establishment of an NMS. Rather, these proposed initiatives are only one part of that program. Accordingly, the Commission will evaluate each of these possible proposals in light of progress in all aspects of its NMS program.

B. Short Selling

Prior to 1975, OTC trading was not subject to any restriction on short selling, in part, because last sale reports had not been available for OTC transactions.[105] In 1974, however, in connection with the implementation of the consolidated system, the Commission proposed to apply Rule 10a–1, its Rule governing short sales, to OTC transactions in those listed securities which were included in the consolidated system.[106]

In proposing to expand the scope of Rule 10a–1, the Commission specifically noted that the potential for manipulation which Rule 10a–1 was designed to prevent would be increased by the availability of transaction reporting. The Commission stated:

> It has long been recognized that one of the dangers of short selling is the possibility that a seller will attempt to establish new lows in a particular security with the hope that investors, observing the decline in price, will be induced to liquidate their holdings * * *. Thus, it is the national dissemination of short sales * * * which in large part enables the short seller to accomplish his intentions.[107]

In 1975, following a review of the comments received on its 1974 proposal, the Commission concluded that the publicity provided by the consolidated system for OTC transactions in reported securities justified the application of Rule 10a–1 to such transactions.[108] The Commission stated that

> [t]he advent of the consolidated system, which will result in wide publicity for sales, including short sales, of certain securities effected in all markets (whether on exchanges or in the [OTC] market), requires that short sale regulation be extended to [OTC] short sales of [r]eported [s]ecurities.[109]

In determining at this time to require last sale reporting for certain OTC securities, the Commission believes that it is appropriate to solicit comment on the question of whether limitations on short selling should be extended to these securities.[110] In this regard, the Commission's concern is highlighted by the comments received with respect to its proposed deregulation of short sales restrictions. On December 21, 1976, the Commission proposed to amend Rule 10a–1 to suspend, in part, the "tick" test provisions of the Rule.[111] In response to this proposal, commentators generally indicated that "the 'tick' test provisions * * * work well and should not be modified."[112] Indeed, various commentators noted their belief that short selling restrictions generally are an important antimanipulative tool.[113] Following a review of these comments, the Commission determined to withdraw its proposed revision of the tick test.[114] In addition, the Commission noted[115] that it is still considering rule proposals which would establish explicit borrowing requirements in connection with short sales[116] and govern short sales (whether on an exchange or in the OTC market) prior to and during underwritten offerings for cash.[117]

In light of these concerns and the continuing support for the regulation of short sales, the Commission requests that interested parties provide, by July 10, 1981, their views and arguments concerning whether such regulation is necessary for OTC/NMS Securities. In this connection, the Commission would urge commentators to focus with

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[104] *See* text accompanying notes 105–49, *infra*.

[105] Rule 10a–1, 17 CFR § 240.10a–1, the Commission's rule governing short sales, relies upon a "tick" test which "generally provides that short sales in reported securities . . . may be effected only on a plus-tick or a zero-plus tick, established by reference to the last sale from any market reported in the consolidated system." Securities Exchange Act Release No. 16964, at 2 (July 8, 1980), 45 FR 47159, 47159. The Commission previously has observed that a "tick" test is not workable without current last sale reporting. Securities Exchange Act Release No. 11468, at 5 (June 12, 1975) ("1975 Rule 10a–1 Adoption Release"), 40 FR 25442, 25443 ("The 'tick' test is viable as a measure of short sale permissibility, only if those subject to the test (or their agents) have access to current information concerning completed transactions.").

[106] Securities Exchange Act Release No. 10668 (March 6, 1974) ("1974 Rule 10a–1 Proposal Release"), 39 FR 10604.

[107] *Id.* at 39 FR at 10604. *Accord*, Letter from Donald M. Feuerstein, Salomon Brothers ("Salomon"), to Office of the Secretary, SEC, dated May 30, 1974 ("Salomon Letter"), contained in File No. S7–515.

[108] The Commission stated, in the 1975 Rule 10a–1 Adoption Release, *supra* note 105, at 4, 40 FR at 25443, that: [t]he Commission's original short sale rules did not apply to [OTC] transactions since, in the absence of publicity concerning [OTC] short sales (such as that to be afforded by the consolidated system), there appeared to be little reason to fear that such sales would have a manipulative or destablizing impact on the markets as a whole.

[109] *Id.* at 2–3, 40 FR at 25443. *See* SEC, *Policy Statement on the Structure of a Central Market System*, at 66, (March 29, 1973) ("Policy Statement"), *reprinted in*, [1973] Secs. Reg. & L. Rep. (BNA) No. 196 at D–1, D–14 ("A list of the steps to be taken [toward an NMS] includes * * * [r]evision of the Commission's short sale rule to impose uniform regulation of short sales in all markets."); and Advisory Committee on a Central Market System, *Interim Report on Regulation Needed to Implement a Composite Transaction Reporting System*, 1–9 (October 11, 1972).

Cf. Section 2(4) of the Act which notes that one of the factors underlying adoption of the Act was concern regarding "sudden and unreasonable fluctuations of securities prices * * * on * * * exchanges and [in the OTC] markets * * *."

[110] The Commission recently has reaffirmed that: Rule 10a–1 was designed to accomplish three objectives: (1) to allow relatively unrestricted short selling in advancing markets, (2) to prevent short selling at successively lower prices, thus eliminating short selling as a tool for driving the market down and (3) to prevent short selling from accelerating a declining market by exhausting all remaining bids at one price level, causing successively lower prices to be established by long sellers. Securities Exchange Act Release No. 16964, at 2 n.2, (July 8, 1980), 45 FR 47159, 47159 n.2. *Accord*, Securities Exchange Act Release No. 17314, at 2 n.3, (November 20, 1980) ("1980 Rule 10a–1 Adoption Release"), 45 FR 79018, 79018 n.3; and SEC, 2 Special Study of Securities Markets, H.R. Doc. No. 95, 88th Cong., 1st Sess. at 251 (1963).

[111] *See* Securities Exchange Act Release No. 13091 (December 21, 1976), 41 FR 46530.

[112] Securities Exchange Act Release No. 17347, at 2 (November 28, 1980), 45 FR 80834, 80834.

[113] *See, e.g.*, Letter from Norman S. Poser, Executive Vice President, Amex, to George A. Fitzsimmons, Secretary, SEC, dated May 4, 1977, at 3, ("[T]he broad need to maintain relatively stable and orderly markets and to enhance investor confidence weighs strongly in favor of retaining the tick test restriction on short selling."); Letter from William G. Burns, Vice President & Treasurer, American Telephone & Telegraph Company, to George A. Fitzsimmons, Secretary, SEC, undated, at 2, ("The current tick rule has provided corporate issuers and investors protection over the years."); Letter from William F. Devin, Chairman, Institutional Advisory Committee on Trading, NYSE, to George A. Fitzsimmons, dated April 4, 1977, at 1, ("eliminating the up-tick requirements for short sales would have * * * highly undesirable results * * *."); Letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC, dated March 17, 1977, at 1, ("We believe the rule continues to be an important means of protecting investors and the public interest, preventing fraudulent and manipulative acts and practices, and promoting just and equitable principles of trade."); and Letter from Edward I. O'Brien, President, SIA, to SEC, dated April 15, 1977, at 2 ("removal of the 'tick' test is fraught with practical disadvantages which outweigh any theoretical advantages which may accrue from such deregulation"). These letters are contained in the Commission's Public File No. S7–665.

[114] *See* Securities Exchange Act Release No. 17347 (November 28, 1980), 45 FR 80834.

[115] *Id.* at 4 n.6, 45 FR at 80834 n.6.

[116] *See* Securities Exchange Act Release No. 13091 (December 21, 1976) (Proposed Rule 10b–11 under the Act), 41 FR 56530, 56540.

[117] *See* Securities Exchange Act Release No. 13092 (December 21, 1976) (Proposed Rule 10b–21 under the Act and related amendments to the Commission's recordkeeping rules), 41 FR 56542.

specificity[118] on the degree to which the present regulation of short sales on exchanges can, or should, be applied to the OTC markets. For example, in the past, some concern has been expressed that, in light of the level of dealer activity in the OTC markets,[119] OTC market makers might require separate treatment under a rule regulating OTC short selling.[120] Similarly, it may be that the existence of a large number of OTC market makers competing in an actively traded OTC security may reduce the potential for manipulative short selling. Furthermore, it should be noted that many of the comments regarding the proposed deregulation of short sales noted that Rule 10a–1 was particularly important to control short selling during a primary offering. Accordingly, commentators are specifically requested to address whether, if the Commission were to adopt proposed Rule 10b–21, which would regulate certain short sales during an underwritten offering, any additional regulation of short sales in OTC securities designated as NMS Securities would be necessary. Therefore, commentators should address whether these, or any other concerns, warrant separate treatment of OTC short selling activity, once an OTC security has been included in a real-time reporting system.

[118] The Commission previously has noted the "lack of current [information regarding] the pattern of short selling * * * in the [OTC] market * * *." Securities Exchange Act Release No. 11276, at 2, (March 11, 1975), 40 FR 12522, 12522. Responding to that observation, the NASD stated that it "would be happy to assist the Commission" in obtaining such information. *See* Letter from Donald H. Burns, Secretary, NASD, to George Fitzsimmons, Secretary, SEC, dated May 19, 1975, at 2, contained in the Commission's Public File No. S7–515.

[119] *See, e.g.*, Salomon Letter, *supra* note 107, at 3. Salomon further noted that "[i]t would certainly be feasible to prohibit short sales in [NASDAQ] securities below the lowest current independent offer, and this could well be an effective substitute for the down-tick restriction on listed securities." *Id.* at 5. *Compare* Proposed Rule 10b–21(c)(2) which would, in certain circumstances, preclude OTC short sales "below a price ⅛th point above the highest independent bid displayed in level 2 of NASDAQ at the time of the proposed short sale."

[120] *See, e.g.*, Letter from John L. Watson III, Chairman, and Morton N. Weiss, President, NSTA, to George A. Fitzsimmons, Secretary, SEC, dated May 25, 1977, at 2; and Letter from Gordon S. Macklin, President, NASD, to George A. Fitzsimmons, Secretary, SEC, dated March 18, 1977, at 3, contained in File No. S7–510. *But cf.* Letter from Donald H. Burns, Secretary, NASD, to George Fitzsimmons, Secretary, SEC, dated May 19, 1975, at 2 ("We note * * * that the original adoption of short sales regulation was a result of manipulative activities engaged in by broker/dealers."). *Compare* Rule 10a–1(e)(5) which provides for separate treatment of certain market makers in listed securities.

C. Inclusion of OTC/NMS Securities in CAES

While proposed Rule 11Aa2–1 did not require that OTC/NMS Securities be included in any specific market linkage facilities, the Commission did note its belief that OTC/NMS Securities eventually should participate in most aspects of an NMS. Moreover, in the Rule 11Aa2–1 Proposal Release, the Commission expressed concern that the present method of OTC trading might not be sufficient to achieve various NMS objectives.[121] For example, the Commission specifically noted that the present telephonic linkages between OTC market makers might not provide an adequate linkage among OTC market makers to allow for the efficient achievement of nationwide price protection.[122] In addition, the Commission noted that telephonic linkages may not provide the optimal environment for a broker-dealer's compliance with his duty of best execution or for fair competiton among brokers, dealers and market centers.[123] Finally, the Commission noted that the present telephonic linkages may make it more difficult for the NASD and the Commission to conduct surveillance for possible overreaching[124] or manipulation in the OTC market.[125]

Most of the commentators on proposed Rule 11Aa2–1 focused on the designation of NMS Securities, rather than the Commission's analysis of the OTC trading environment. The NASD, however, did address methods by which the OTC trading environment might be improved.[126] The NASD stated that—

> It has made a commitment to enhance its NASDAQ System so as to provide a meaningful competitive environment for the trading of 19c–3 [S]ecurities *as well as other NASDAQ securities*. These facilities would include an order routing switch with the [Securities Industry Automation Corporation ("SIAC")] message switch and the [ITS] and an automatic execution and order display capability.[127]

[121] *See* Rule 11Aa2–1 Proposal Release, *supra* note 5, at 59–68, 44 FR at 36922–23.

[122] *See* Rule 11Aa2–1 Proposal Release, *supra* note 5, at 59 & n.110, 44 FR at 36922 & n.110.

[123] *Id.* at 64 n.118, 44 FR at 36923 n.118.

[124] *See* note 51, *supra*.

[125] *Id.* at 59 n.110, 44 FR at 36922 n.110.

[126] In addition, the NSTA repeated its "desire that equal facilities for trading and reporting NMS transactions be provided so that no particular market will have an advantage over any other." 1979 NSTA Letter, *supra* note 21, at 2.

[127] 1979 NASD Letter, *supra* note 21, at 2 (emphasis supplied). *Accord*, Letter from Gordon S. Macklin, President, NASD, to George A. Fitzsimmons, Secretary, SEC, at 1, dated July 25, 1979, contained in Public File No. S7–778. ("At the [NASD] Board's May [1979] meeting, a commitment was * * * made to develop enhanced market facilities using the NASDAQ system to provide a meaningful competitive environment for the trading of listed stocks as well as other NASDAQ securities. These enhanced facilities include an order routing switch in NASDAQ linked with the SIAC message switch and the [ITS] and an automatic execution and order display capability in NASDAQ.") and 5 *NASDAQ News*, at 5–6, dated December 1980 ("While [the CAES] will start with selected listed securities, it is indeed our plan to include all of the securities in NASDAQ.").

Subsequently, the NASD has indicated that it anticipates that its enhanced NASDAQ System (the so-called CAES) will begin operation, on a pilot basis limited to certain exchange traded securities, during 1981.

The Commission believes that the enhanced NASDAQ facilities, as described, are an important and positive development in the evolution of an NMS for securities traded in the OTC market as well as securities included in an integrated trading environment. Under the present system of OTC trading, which relies upon telephonic communications among market makers, various problems may develop. For example, the Commission understands that, particularly during periods of active trading, some OTC market makers may be unable to respond to all telephonic inquiries. In addition, under a manual reporting procedure, there may be delays between when an order is executed telephonically and when it is reported.

In contrast, under the enhanced NASDAQ System, brokers could obtain automatic executions based on a firm's displayed quotations and the System could provide for an automated transaction reporting procedure. Furthermore, the enhanced execution procedures associated with the CAES also may encourage OTC traders to route orders to the best displayed quotation (in size) because such an execution procedure may provide broker-dealers greater assurance that orders so routed will efficiently receive an execution. In addition, such execution procedures may reduce various errors which are normally encountered in the manual comparison and clearance of transactions.[128] Accordingly, while the Commission recognizes that the existing telephonic networks may remain necessary to execute large sized orders, the inclusion of OTC/NMS Securities in the CAES should provide significant benefits for the handling of smaller sized retail orders.

In light of the benefits which may be expected from the inclusion of OTC/

[128] Moreover, assuming that the enhanced NASDAQ will provide the NASD with an improved ability to examine the sequence of particular transactions, it also should improve the NASD's general surveillance capabilities.

NMS Securities in the enhanced NASDAQ, the Commission expects that the NASD will consider inclusion of some OTC/NMS Securities, at least on a pilot basis, in its enhanced NASDAQ facilities by 1982. Ultimately, the Commission anticipates that it may be possible to trade all OTC/NMS Securities through the enhanced NASDAQ facilities.

D. Price Protection

As early as 1973, the Commission indicated that the facilities of an NMS would provide a broker-dealer with the ability to ensure that "his customer's order [is executed] in the best market available."[129] In the context of exchange traded securities, this goal has been most recently raised with respect to ITS "trade-throughs."[130] In this connection, the Commission has taken the position that trade-throughs constitute "unacceptable behavior" in the evolving NMS.[131] Moreover, the Commission has directed the ITS participants to take prompt action to resolve the trade-through problem [132] and, as noted above, the ITS participants have agreed "in principle" to a trade-through rule.

Similarly, once OTC Securities are designated as NMS Securities, it also may be appropriate to reexamine a broker-dealer's responsibilities with respect to the execution of a customer's order in an OTC/NMS Security. At that time, broker-dealers will have readily available to them current transaction information and firm quotations with size for OTC/NMS Securities. Thus, because the NASD already has interpreted its Rules of Fair Practice as requiring, not only that a broker "ascertain the best inter-dealer market" for a security, but also that a broker execute his customer's order "so that the resultant price to the customer is as favorable as possible under prevailing market conditions," [133] it may be appropriate to expect that, in an environment characterized by real-time transaction reporting and firm quotations, a broker-dealer either will route his customer's order to the best displayed bid or offer (in size) or will provide his customer with a price equal to the best displayed bid or offer (in size). Moreover, the Commission also would expect that, once OTC/NMS Securities are included in the enhanced NASDAQ System, the NASD would apply its standard with increasing rigor because, with respect to securities included in the System, broker-dealers would have readily available to them an efficient method of routing orders based on displayed quotations, thereby eliminating the risks entailed in routing an order to a displayed quotation rather than executing the order as principal. However, irrespective of when OTC/NMS Securities are included in the enhanced NASDAQ System, the Commission expects the NASD actively to conduct surveillance of trading in OTC/NMS Securities to ensure that its members are providing their customers with the best possible execution for their orders in light of the availability of transaction information and firm quotations.

E. Unlisted Trading Privileges

Although the Commission had authority,[134] from 1936 to 1964, to grant exchanges unlisted trading privileges ("UTP") [135] for securities traded exclusively in the OTC market, this authority was seldom exercised.[136] In 1964, this authority was removed from the Act [137] in conjunction with the imposition of additional disclosure and other obligations on OTC issuers. Congress, however, in adopting the 1975 Amendments, reinstated the Commission's authority to grant exchanges UTP for OTC securities upon making certain specified findings.[138]

In explaining the decision to reinstate the Commission's authority to grant UTP for OTC securities, the Senate Report noted that such trading "would be an appropriate step toward a[n NMS] in which investors obtain the benefits and projections of both the 'auction' and 'dealer' systems to the extent each is appropriate under the circumstances [for] any particular security." [139] Specifically, the Senate Report went further and stated that "[t]he Committee views unlisted trading as appropriate to a[n NMS] in which all market makers and brokers are permitted to deal freely with one another without unnecessary regulatory constraints such as the NYSE's Rule 394(b)," [140] *i.e.*, off-board trading restrictions.

Despite this general endorsement of UTP for OTC securities, the Senate Report expressed concern that—

> [u]ntil substantial progress has been made toward the development of such a[n NMS,] the ability of an exchange to commence unlisted trading in an OTC security might well decrease rather than increase competition. [T]herefore Section 12(f)(2) directs the SEC to consider carefully the progress that has been made toward the development of a[n NMS before granting UTP for OTC securities.] [141]

The Commission also has been concerned that the grant of UTP for OTC securities should be accompanied by "the implementation of those technical elements of a[n NMS] necessary to ensure that trading in those [S]ecurities occurs under competitively fair circumstances and in a manner consonant with the principles of a[n NMS]." [142] In addition, the Commission would not be prepared to take such action if it resulted in the imposition of

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[129] Policy Statement, *supra* note 109, at 17, [1973] Secs. Reg. & L. Rep. (BNA) No. 196 at D-4. *Accord*, Section 11A(a)(1)(D) of the Act.

[130] The Commission recently has stated that "[t]he term "trade-through" generally refers to the execution of an order in one market center at a price inferior to that being displayed by another market center." 1980 Rule 10a-1 Adoption Release, *supra* note 110, at 5 n. 12, 45 FR at 79019 n. 12.

[131] January Statement, *supra* note 11, at 31 n.35, 43 FR at 20364 n.35. *Accord*, 1980 Rule 10a-1 Adoption Release, *supra* note 110, at 5 n.12 & 45 FR at 79019 n.12.

[132] 1980 Rule 10a-1 Adoption Release, *supra* note 110, at 11 n.22, 45 at 79020 n.22.

[133] NASD, Execution of Retail Transactions in OTC Market, NASD, Rules of Fair Practice, Art. III, § 1, Interpretation 103A, *NASD Manual* (CCH) ¶ 2151.

[134] Act of May 27, 1936, Pub. L. No. 74-621, ch. 462, § 1, 49 Stat. 2375, 2375-76 (1936) [current version at 15 U.S.C. § 78*l*(f) (1976)].

[135] Prior to the enactment of the federal securities laws, exchanges had commenced trading in OTC securities whenever it was in their "economic self-interest . . . to do so" (Senate Report, *supra* note 8, at 18, [1975] U.S. Code Cong. & Ad. News at 196), although the NYSE had discontinued trading of OTC securities in 1910 in response to a recommendation by the so-called Hughes Commission. *See* Report of the Governor's Committee on Speculation in Securities and Commodities, dated June 7, 1909, *reprinted in*, W. van Antwerp, *The Stock Exchange From Within* 413, 425 (1913) ("The unlisted department, except for temporary issues, should be abolished.").

[136] *E.g.*, Securities Exchange Act Release Nos. 4173 (October 4, 1948) and 4155 (August 20, 1948); *In re* N.Y. Curb Exchange, 22 SEC 159 (1946); and *In re* N.Y. Curb Exchange, 18 SEC 315 (1945). There had been no applications for UTP in OTC securities since 1949. SEC, *25th Ann. Rep.* 74 (1959). In 1962, only four stocks were traded pursuant to UTP in OTC securities granted by the Commission, although another 183 OTC securities traded on an UTP basis pursuant to then Section 12(f)(1) of the Act which had allowed exchanges to continue trading securities traded on an UTP basis prior to March 1, 1934. *See* SEC, *28th Ann. Rep.* 51-53, 188 (1962).

[137] Securities Acts Amendments of 1964, Pub. L. No. 88-467, § 3(b), 78 Stat. 565, 565-66 (1964) [current version at 15 U.S.C. § 78*l*(f)(1976)], *reprinted in*, [1964] U.S. Code Cong. & Ad. News 646, 647-48.

[138] 1975 Amendments, Pub. L. No. 94-29, § 8(1), 89 Stat. 97, 117-18, [codified at 15 U.S.C. § 78*l*(f)(1976)], *reprinted in*, [1975] U.S. Code Cong. & Ad. News 97, 117-18.

[139] Senate Report, *supra* note 8, at 20, [1975] U.S. Code Cong. & Ad. News at 198. These views and those quoted immediately below in the text are in accord with congressional studies prior to the enactment of the 1975 Amendments. *See*, Senate Comm. on Banking, Housing & Urb. Affs., *Report to Accompany S. 2519: National Securities Market System Act of 1974*, 93d Cong., 2d Sess., S. Rep. No. 93-865, at 15-16 & 49; and Senate Study, *supra* note 75, at 126-35.

[140] Senate Report, *supra* note 8, at 20, [1975] U.S. Code Cong. & Ad. News at 198.

[141] *Id.*

[142] January Statement, *supra* note 11, at 45-46, 43 FR at 4361 (footnote omitted). *See* Rule 11Aa2-1 Proposal Release, *supra* note 5, at 58 n.109, 44 FR at 36922 n.109.

regulatory restrictions on the OTC market which might actually result in a reduction of competition.[143] To that end, the Commission stated, in the Rule 11Aa2–1 Proposal Release, it would be appropriate to evaluate whether exchanges should be granted UTP for OTC/NMS Securities once existing exchange off-board trading restrictions were not applicable to those Securities.[144]

While most of the comments on proposed Rule 11Aa2–1 focused on the designation process, the NASD, although not objecting to the grant of UTP for OTC securities,[145] endorsed the Commission's position that exchange off-board trading restrictions should not be applied to OTC/NMS Securities which have been granted UTP.[146] Similarly, although the Commission anticipates considering in the future whether exchanges should be granted UTP for OTC/NMS Securities, the Commission is concerned that the necessary technical elements to ensure fair competition and the protection of investors be in place before UTP for OTC securities is granted. Specifically, the Commission believes it would not be appropriate to grant UTP for OTC/NMS Securities until it has had an opportunity to evaluate (1) the effects of transaction reporting on OTC/NMS Securities; (2) the effects of an automated interface between the enhanced NASDAQ facilities and the ITS; [147] and (3) the effects of trading exchange-traded securities in an environment free of off-board trading restrictions.[148]

IV. Effects on Competition

Section 23(a)(2) of the Act [149] requires that Commision, in adopting rules under the Act, to consider the anticompetitive effects of such rules, if any, and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has examined Rule 11Aa2–1 and the related amendments to Rule 11Aa3–1 in light of the standards cited in Section 23(a)(2) and concludes that adoption of the Rule and amendments will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission is aware of the view that inclusion of OTC/NMS Securities in the NMS disclosure facilities might adversely affect the liquidity of the markets for those Securites. Indeed, the Commission specifically requested, in the Rule 11Aa2–1 Proposal Release,[150] commentators to address this issue. Nevertheless, the Commission did not receive any commentary which reaffirmed the significance of this concern. Moreover, as discussed in detail above, the Commission believes that, on balance, any such effect is outweighed by the substantial benefits provided by disclosure of transaction and quotation information.[151]

V. Text of Rule and Rule Amendments

The Securities and Exchange Commission hereby adopts Rule 11Aa2–1 [152] and amends Rule 11Aa3–1 [153] pursuant to its authority under the Securities Exchange Act of 1934,[154] and particularly Sections 2, 3, 6, 9, 10, 11, 11A, 15, 15A, 17 and 23 thereof.[155]

Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

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

A. By adding § 240.11Aa2–1 to read as follows:

§ 240.11Aa2–1 Designation of national market system securities.

(a) *Definitions.* For purposes of this section—

(1) The term "national market system security" shall mean any equity security which is designated as qualified for trading in a national market system (or any facility or subsystem thereof) pursuant to this section.

(2) The term "registered equity security" shall mean any equity security which is (i) registered pursuant to section 12(b) or 12(g) of the Act, (ii) issued by an insurance company meeting the conditions of section 12(g)(2)(G) of the Act, or (iii) registered under the Securities Act of 1933 and issued by a closed-end investment management company registered under section 8 of the Investment Company Act of 1940.

(3) The term "NASDAQ security" shall mean any registered equity security which is not listed or admitted to unlisted trading privileges on a national securities exchange ("exchange") and for which quotation information is disseminated in the NASDAQ electronic inter-dealer quotation system ("NASDAQ").

(4) The term "NASDAQ market maker," when used with respect to a particular NASDAQ security, shall mean any dealer (other than a person making markets exclusively in oddlots) which holds itself out as being willing to buy and sell that security for its own account on a regular and continuous basis otherwise than on an exchange in amounts of less than block size and which is authorized to disseminate its quotations for that security in NASDAQ and makes such quotations available through that system on a regular and continuous basis.

(5) The term "price per share" for a particular business day with respect to a NASDAQ security shall meant the highest bid price displayed on Level 2 of NASDAQ at 4:00 p.m. Eastern time.

(6) The term "designation plan" shall mean any plan for establishiing, maintaining and administering (i) procedures for designation NASDAQ securities as national market system securities in accordance with the standards set forth in paragraph (c) of this section, (ii) maintenance criteria for national market system securities, and (iii) procedures for revoking or suspending the designation of a national

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[143] Section 12(f)(2) of the Act states that the Commission "shall not grant" UTP for OTC securities "if any rule of the * * * exchange making application * * * would unreasonably impair the ability of any dealer to solicit or effect transactions in such security for his own account, or would unreasonably restrict competition among dealers in such security or between such dealers, acting in the capacity of market makers who are specialists and such dealers who are not specialists."

[144] Rule 11Aa2–1 Proposal Release, *supra* note 5, at 10 n.20 & 58 n.109, 44 FR at 36913 n.20 & 36922 n.109. *Accord*, January Statement, *supra* note 11, at 46 n.63, 43 FR at 4361 n.63.

[145] 1979 NASD Letter, *supra* note 21, at 4 ("As the [NMS] develops, securities which are traded exclusively in the [OTC] market may become the subject of [UTP] on exchanges."). *Accord*, 1979 NSTA Letter, *supra* note 21, at 2.

[146] 1979 NASD Letter, *id.*, *Accord*, 1979 NSTA Letter, *id.*

[147] *See* note 102, *supra*. The Commission recently has published for public comment a proposed order to require the implementation of such an interface. *See* Securities Exchange Act Release No. 17516 (February 5, 1981), 46——.

[148] Of course, OTC/NMS Securities granted UTP would not be subject to off-board trading restrictions, because those Securities would be subject to the provisions of Rule 19c–3 under the Act. As a general matter, Rule 19c–3(a) would apply to, among others, "any reported security * * * as to which [UTP] on [an] exchange" has been extended since April 26, 1979. In this connection, it should be noted that the Commission is still considering applications by an issuer to delist its securities from an exchange and by the exchange to obtain UTP in those securities, if the Commission grants their application to delist. *See* Securities Exchange Act Release No. 16454 (December 27, 1979), 19 S.E.C. Doc. 16. Most recently, the Commission has extended various temporary excemptions which allow the securities to be traded both on the exchange and in the OTC market and indicated its intention to resolve this matter by March 31, 1981. *See* Securities Exchange Act Release No. 17398 (December 22, 1980), 21 S.E.C. Doc. 1121.

[149] 15 U.S.C. § 78w(a)(2).

[150] *See* Rule 11Aa2–1 Proposal Release, *supra* note 5, at 66–69, 45 FR at 36923.

[151] *See* text accompanying notes 47–68, *supra*.

[152] 17 CFR § 240.11Aa2–1.

[153] 17 CFR § 240.11Aa3.1.

[154] 15 U.S.C. §§ 78a *et seq.*, as amended by Pub. L. No. 94–29, 89 Stat. 97 (June 4, 1975), *reprinted in* [1975] U.S. Code Cong. & Ad. News 97.

[155] 15 U.S.C. §§ 78b, 78c, 78f, 78i, 78j, 78k, 78k–1, 78o, 78o–3, 78q and 78w.

market system security upon failure to meet established maintenance criteria or upon other specified events.

(7) The term "effective designation plan" shall mean any designation plan approved by the Commission pursuant to this section.

(8) The terms "quotation" and "quotation information" shall have the meaning provided in § 240.11Ac1–2 (Rule 11Ac1–2 under the Act).

(9) The term "qualification date" shall mean—

(i) The effective date of paragraph (b) of this section, and

(ii) The last business day of each calendar quarter thereafter.

(b) *Designation criteria.* (1) Any NASDAQ security which on the most recent qualification date meets each of the criteria set forth in paragraph (b)(4)(i) of this section ("Tier I Criteria") is hereby designated as a national market system security, such designation to be effective without further action on the tenth business day following such qualification date.

(2) Any NASDAQ security not described in paragraph (b)(1) of this section which substantially meets the criteria set forth in paragraph (b)(4)(ii) of this section ("Tier 2 Criteria") shall be designated as national market system securities upon application of the issuer of such security in accordance with the terms of an effective designation plan. Determinations that particular NASDAQ securities substantially meet the Tier 2 Criteria shall be made by the National Association of Securities Dealers, Inc. ("NASD"), and designations made pursuant to this paragraph (b)(2) shall become effective, in accordance with the terms of such effective designation plan.

(3) Any security designated as a national market system security pursuant to this section shall be deemed qualified for trading in a national market system (or any facility or subsystem thereof) so long as its designation remains effective. The effectiveness of any designation pursuant to paragraphs (b)(1) or (b)(2) of this section with respect to a security shall terminate—

(i) If the designation of such security is revoked, or during any period the designation of such security has been suspended, by the NASD in accordance with the terms of an effective designation plan, or

(ii) If such security becomes listed and registered, or admitted to unlisted trading privileges, on an exchange.

(4)(i) *Tier 1 criteria.* (A) The issuer of the security has net tangible assets of at least $2,000,000 and capital and surplus of at least $1,000,000.

(B) There are at least 1,200 holders of record of 100 shares or more and at least 500,000 shares held by persons other than directors, or persons owning of record or beneficially 10 percent or more of the outstanding shares of the security ("publicly held shares").

(C) The market value of publicly held shares is at least $5,000,000.

(D) The price per share on each of the ten business days preceding the most recent qualification date is $10 or more.

(E) The average volume of trading per month during the six month period preceding the most recent qualification date is 600,000 shares or more.

(F) At least four dealers act as NASDAQ market makers with respect to the security on at least 90 percent of the business days during the six month period preceding the most recent qualification date.

(ii) *Tier 2 criteria.*

(A) The issuer of the security has net tangible assets of at least $2,000,000 and capital and surplus of at least $1,000,000.

(B) There are at least 400 holders of record of 100 shares or more and at least 250,000 publicly held shares.

(C) The market value of publicly held shares is at least $3,000,000.

(D) The price per share on each of the ten business days prior to the date of application by the issuer is $5 or more.

(E) The average volume of trading per month for the six month period preceding the date of application by the issuer is 100,000 shares or more.

(F) At least four dealers act as NASDAQ market makers with respect to the security on at least 70 percent of the business days during the six month period preceding the date of application by the issuer.

Instructions. 1. The computations required by (i)(A) and (ii)(A) shall be taken from the issuer's most recent annual report on Form 10–K (§ 249.310 of this chapter) filed with the Commission pursuant to section 13 or 15(d) of the Act. 2. The computations required in (ii)(B) and (ii)(C) shall be as of the date of application of the issuer. 3. Determinations of beneficial ownership for purposes of (i)(B) and (ii)(B) shall be made in accordance with § 240.13d–3 (Rule 13d–3 under the Act).

(c) *Filing of designation plan.* (1) On or before July 15, 1981, the NASD shall file with the Commission a designation plan with respect to NASDAQ securities designated or eligible for designation as national market system securities pursuant to this section. Such plan shall specify, at a minimum:

(i) Procedures for applications for designation filed by issuers with respect to NASDAQ securities (including time limits with respect to action with respect to such applications);

(ii) Procedures for determining whether particular NASDAQ securities substantially meet the Tier 2 Criteria and for designating such securities as national market system securities following such determinations;

(iii) Appropriate maintenance criteria for securities designated as national market system securities pursuant to this section;

(iv) Procedures and criteria for revoking or suspending the designation of a national market system security;

(v) Procedures and mechanisms for providing to brokers, dealers, self-regulatory organizations, investors and the Commission a list of those securities designated as national market system securities pursuant to this section and for updating that list within ten business days of each qualification date or more often as necessary.

(2) The NASD may propose an amendment to its designation plan by filing with the Commission the text of such amendment, together with a statement of the purpose of such amendment.

(d) *Effectiveness of designation plan.* (1) The Commission shall publish notice of the filing of the designation plan, or any proposed amendment thereto, together with the terms of substance of the filing or a description of the subjects and issues involved, and shall provide interested persons an opportunity to submit written comments. No designation plan, or amendment thereto, shall become effective unless approved by the Commission or otherwise permitted in accordance with paragraph (d)(3) of this section.

(2) Within 120 days of the date of publication of notice of the filing of a designation plan or any amendment thereto, or within such longer period as the Commission may designate up to 180 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the NASD consents, the Commission shall, by order, approve such plan or amendment, with such changes or subject to such conditions as the Commission may deem necessary or appropriate, if it finds that such plan or amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.

(3) A proposed amendment to an effective designation plan may be put into effect upon publication of notice of such amendment if designated by the NASD as involving solely technical or

ministerial matters or concerned solely with the administration of the plan. At any time within 60 days of the date of publication of notice of any such amendment, the Commission may summarily abrogate the amendment and require that such amendment be refiled in accordance with paragraph (c)(2) of this section and reviewed in accordance with paragraph (d)(2) of this section, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

(4) Notwithstanding the provisions of paragraph (d)(1) of this section, a proposed amendment to an effective designation plan may be put into effect summarily upon publication of notice of such amendment, on a temporary basis not to exceed 120 days, if the Commission finds that such action is necessary in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

(5) The NASD shall comply with the terms of any effective designation plan filed by it pursuant to paragraph (c) of this section.

(e) *Appeals.* The Commission may, in its discretion, entertain appeals in connection with any effective designation plan as follows:

(1) Any action or failure to act by the NASD in connection with an effective designation plan regarding either the designation of a security or the revocation or suspension of any such designation shall be subject to review by the Commission, on its own motion or upon application by any person aggrieved thereby (including, but not limited to, brokers, dealers, and issuers) filed with the Commission within 30 days after notice of such action or failure to act or within such longer period as the Commission may determine.

(2) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of any such action unless the Commission determines otherwise, after notice and opportunity for a hearing on the question of a stay (which hearing may consist only of affidavits or oral arguments).

(3) In any proceeding for review, if the Commission, after appropriate notice and opportunity for hearing (which hearing may consist solely of the record of any proceedings conducted in connection with such action or failure to act and an opportunity for the presentation of reasons supporting or opposing such action or failure to act) and upon consideration of such other data, views and arguments as it deems relevant, finds that the action or failure to act is in accordance with the applicable provisions of such plan and that the applicable provisions are, and were, applied in a manner consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets, and the removal of impediments to, and perfection of the mechanisms of, a national market system, the Commission, by order, shall dismiss the proceeding. If the Commission does not make any such finding, or if it finds that such action or failure to act imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, the Commission, by order, shall set aside such action and/or require such action with respect to the matter reviewed as the Commission deems necessary in the public interest, for the protection of investors and the maintenance of fair and orderly markets, or to remove impediments to, and perfect the mechanisms of, a national market system.

(f) *Exemptions.* The Commission may exempt from any provision of this section, either unconditionally or on specified terms and conditions, the NASD or any security if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.

(g) *Effective dates:* The effective date of this section shall be April 1, 1981, except for paragraph (b)(1) which shall become effective on January 15, 1982, and paragraph (b)(2) which shall become effective on August 1, 1982.

* * * * *

(Secs. 2, 3, 6, 9, 10, 11, 15, 17 and 23, Pub. L. No. 78–291, 48 Stat. 881, 882, 885, 891, 895, 897 and 901, as amended by Secs. 2, 3, 4, 11, 14 and 18, Pub. L. No. 94–29, 89 Stat. 97, 104, 121, 137 and 155 (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78k, 78*o*, 78q and 78w); Sec. 15A, as added by Sec. 1, Pub. L. No. 75–719, 52 Stat. 1070, as amended by Sec. 12, Pub. L. No. 94–29, 89 Stat. 127 (15 U.S.C. 78*o*–3); Sec. 11A, as added by Sec. 7, Pub. L. No. 94–29, 89 Stat. 111 (15 U.S.C. 78k–1))

B. By amending paragraphs (b)(1) and (b)(4)(i) of § 240.11Aa3–1 to read as follows:

§ 240.11Aa3–1 Dissemination of transaction reports and last sale data with respect to transactions in reported securities.

* * * * *

(b) * * *

(1) Every exchange shall, with respect to transactions in listed equity securities executed through its facilities, and every association shall, with respect to (i) transactions in listed equity securities executed by its members otherwise than on an exchange and (ii) transactions in non-listed national market system securities, file with the Commission a transaction reporting plan.

* * * * *

(4) * * *

(i) Reporting requirements with respect to transactions in listed equity securities or non-listed national market system securities, for any broker or dealer subject to the plan.

* * * * *

(Secs. 2, 3, 6, 9, 10, 11, 15, 17 and 23, Pub. L. No. 78–291, 48 Stat. 881, 882, 885, 889, 891, 895, 897, and 901, as amended by Secs. 2, 3, 4, 11, 14 and 18, Pub. L. No. 94–29, 89 Stat. 97, 104, 121, 137 and 155 (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78*o*, 78q and 78w); Sec. 15A, as added by sec. 1, Pub. L. No. 75–719, 52 Stat. 1070, as amended by sec. 12, Pub. L. No. 94–29, 89 Stat. 127 (15 U.S.C. § 78*o*–3); sec. 11A, as added by sec. 7, Pub. L. No. 94–29, 89 Stat. 111 (15 U.S.C. 78k–1))

By the Commission.

George A. Fitzsimmons,

Secretary.

February 17, 1981.

[FR Doc. 81–6282 Filed 2–24–81; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 353

Portable Electric Typewriters From Japan; Clarification of Scope of Antidumping Duty Order and Correction to Early Determination of Antidumping Duties

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

ACTION: Notice of Clarification of Scope of Antidumping Duty Order and of Correction to Early Determination of Antidumping Duties.

SUMMARY: This notice is to advise the public that the Department of Commerce is clarifying the scope of the antidumping duty order and is correcting the early determination of antidumping duties on portable electric typewriters from Japan. After publication of the order, the U.S. Customs Service reclassified a typewriter included in both the Department's fair value investigation and the ITC's material injury investigation, warranting the Department's clarification of the scope

of the order to continue the inclusion of that model and those with similar characteristics. In addition, the Department is correcting the weighted-average margin given for Brother Industries Ltd. in the early determination of antidumping duties. As a result a decision of the U.S. Court of International Trade, the Department will continue to suspend liquidation of all entries subject to the early determination of antidumping duties.

EFFECTIVE DATES: Clarification of scope effective May 9, 1980. Correction to the early determination of dumping duties effective February 25, 1981.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford, Office of Compliance, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202–377–2209).

SUPPLEMENTARY INFORMATION: On May 9, 1980, the Department published in the **Federal Register** (45 FR 30618) an antidumping duty order with respect to portable electric typewriters from Japan. Pursuant to section 736(c) of the Tariff Act of 1930 (19 U.S.C. 1673e(c)), the Department published an "Early Determination of Antidumping Duties" on August 13, 1980 (45 FR 53853) with respect to two manufacturers, Brother Industries Ltd. and Silver Seiko Ltd. In both notices the Department stated that "portable electric typewriters" are those provided for in item 676.0510, Tariff Schedules of the United States Annotated (TSUSA).

During the Department's fair value investigation and the International Trade Commission's injury investigation, TSUSA 676.0510 was a sufficient definition of the class or kind of merchandise within the scope of the investigation. However, on August 7, 1980, the U.S. Customs Service reclassified certain typewriters from TSUSA 676.0510 to 676.0540. The Royal Administrator, one model included in this reclassification, was specifically cosidered during the Department's fair value investigation to be within the class or kind of merchandise which was being sold at less than fair value. Additionally, the ITC determined the Royal Administrator to be part of the class of merchandise materially injuring a domestic industry.

In an action filed on November 18, 1980, counsel for Royal argued that the tariff reclassification decision, made by the U.S. Customs Service subsequent to publication of the antidumping duty order, precluded the Department from clarifying the class or kind set forth in that order. The Court of International Trade dismissed Royal's action on December 29, 1980, on jurisdictional grounds. In its opinion the Court stated:

> "The court distinguishes between the authority of the Customs Service to classify according to tariff classifications (19 U.S.C. 1500) and the power of the agencies administering the antidumping law to determine a class or kind of merchandise. The determinations under the antidumping law may properly result in the creation of classes which do not correspond to classifications found in the tariff schedules or may define or modify a known classification in a manner not contemplated or desired by the Customs Service. Within the context of an antidumping proceeding the administering agency, at the proper time, can define the class in its terms." *Royal Business Machines Inc.* v. *United States*, No. 80–11–00056, Slip Op. 80–16 at 16 n. 18 (CT INT'L TRADE, December 29, 1980).

This clarification is necessary to insure that articles included within the class or kind of merchandise covered by the Department's and ITC's investigations are within the scope of the order. Accordingly, for purposes of the May 9 antidumping duty order and the August 13 early determination of antidumping duties, the Department defines "portable electric typewriters" as all typewriters currently classifiable under TSUSA 676.0510, and some currently classifiable under 676.0540, depending on their individual characteristics. The Royal Administrator, therefore, is within the scope of the order. For other models classified under TSUSA 676.0540 the Department will provide guidance to prospective importers upon request. The characteristics we will consider include, but are not limited to, the dimensions, weight, presence of a carrying case, the type of market, and the method of distribution.

As a result of its early determination of antidumping duties, the Department calculated the weighted-average margin for Brother Industries Ltd. to be 5.31%. The Department indicated in the notice of "Early Determination of Antidumping Duties" of August 13, 1980, that the foreign market value for Brother was calculated on the basis of the weighted-average sales price of comparable home market models for each of two distinct time periods. In actuality, the Department determined the foreign market value by using only one weighted-average price for the entire period. As there were two price lists effective during the period of investigation, the method stated in the notice is correct. As a result of recalculations using a weighted-average sales price for each of the two distinct time periods, the Department has determined that the weighted-average margin for Brother Industries is 4.33%.

Accordingly, effective on the date of publication of this notice, Customs officers are directed to require a cash deposit of estimated antidumping duties equal to 4.33% *ad valorem* on all entries of portable electric typewriters manufactured by Brother Industries Ltd.

On December 30, 1980, the U.S. Court of International Trade issued a preliminary injunction enjoining the liquidation of all entries subject to the early determination of antidumping duties (*SCM Corporation* v. *United States*, No 80–9–013143, Slip Op. 80–17 (CT INT'L TRADE December 30, 1980)). The issuance of this correction of the weighted-average margin for Brother Industries does not affect the suspension of liquidation of entries subject to the Court's order.

This notice is published pursuant to section 736 of the Tariff Act of 1930 (19 U.S.C. 1673e), and § 353.48 of the Commerce Regulations (19 CFR 353.48).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

February 17, 1981.

[FR Doc. 81–6227 Filed 2–24–81; 8:45 am]

BILLING CODE 3510–25–M

POSTAL SERVICE

39 CFR Part 601

Publishing Amendments to the Postal Contracting Manual More Expeditiously

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to establish a procedure for publishing in an expeditious manner amendments to the Postal Contracting Manual PCM). The existing procedure for amending the Postal Contracting Manual through the issuance of Transmittal Letters published and distributed by the Government Printing Office has been accompanied by extensive printing delays. To avoid these delays, the Postal Service has devised a Postal Contracting Manual Circular, to be prepared in typescript and printed by the Headquarters Printing Division. These Circulars, which will publish a group of Postal Contracting Manual changes, will be issued as often as necessary and will be sent to each subscriber. Notice of their issuance and description of the changes made will also be published in the **Federal Register**, and the text of the changes will be filed with the Director of the Federal Register. Once each year all Postal Contracting Manual Circulars issued that year will be cumulated in a

Transmittal Letter, noticed in the **Federal Register**, and transmitted in the usual way by Government Printing Office, to each subscriber.

EFFECTIVE DATE: February 25, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Jones, (202) 245–4603.

SUPPLEMENTARY INFORMATION: To carry out the purpose described above, the third sentence of § 601.105 is revised to refer to amendments to the Postal Contracting Manual via Postal Contracting Manual Circulars, and to note that these Circulars will be cumulated in an annual Transmittal Letter published and distributed by the Government Printing Office.

Accordingly, title 39, Code of Federal Regulations, is amended as follows:

PART 601—PROCUREMENT OF PROPERTY AND SERVICES

Revise the third sentence of § 601.105 to read as follows:

§ 601.105 Amendments to the Postal Contracting Manual

* * * Subscribers to the basic Manual will receive from time to time the amendments from the Postal Service in the form of Postal Contracting Manual Circulars. PCM Circulars will be cumulated in an annual Transmittal Letter which subscribers will receive from the Government Printing Office.

* * * * *

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 81-6238 Filed 2-24-81; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-4-FRL 1760-2]

Alabama'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 Alabama.

The Environmental Protection Agency has reviewed Alabama's Application for Interim Authorization and has determined that Alabama'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 Alabama is hereby granted Interim Authorization to operate the State program in lieu of the Subtitle C hazardous waste management program (Phase I) in accordance with Section 3006(c) of RCRA and implementing regulations found in 40 CFR Part 123 Subpart F.

EFFECTIVE DATE: Interim Authorization, Phase I, for Alabama shall become effective on February 25, 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) 881–3016.

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 Alabama submitted its Draft Application for Phase I Interim Authorization on September 8, 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 November 1, 1980, Alabama 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 Alabama's hazardous waste management program. The following issues were raised by the review team:

(a) The Program Description did not clarify the responsibilities for the inspection of interstate and intrastate transporters.

(b) In the Authorization Plan, the State failed to commit to the following: prepare legislation to establish the unquestioned right to enter and inspect transporters, add regulations to insure that manifest requirements for out-of-state shipments will comply with 40 CFR 123.128, amend the State legislation to require that waste sent out-of-state will be sent only to facilities with Interim Status or RCRA permits. The State had not committed to the development of specific compliance evaluation procedures. The Authorization Plan did not include a schedule for the requested legislative and regulatory changes.

(c) The Memorandum of Agreement (MOA) with EPA did not include the three assurances for citizen participation as required at 40 CFR 123.128(f)(2)(ii). The MOA was lacking several important provisions that were submitted in EPA comments on the final draft application.

(d) The Attorney General's Statement lacked several citations that were needed to support regulatory authority for certain aspects of the State program and failed to explain the Public Service Commission's authority to inspect transporters. The statement did not explain how manifest procedures are utilized by generators or transporters when wastes go out-of-state.

To resolve these issues the State made revisions mainly in the Authorization Plan and also minor changes in the MOA and Attorney General's Statement.

(a) The Program Description was amended to explain inspection authority.

(b) Additions were made to the Authorization Plan to provide the requested commitments.

(c) The Memorandum of Agreement was amended to include assurances for citizen participation and changes as suggested.

(d) The Attorney General's Statement was amended to include additional sites and explain manifest requirements for out-of-state shipments.

Responsiveness Summary

As noticed in the **Federal Register** on November 14, 1980 (45 FR 75240), EPA gave the public until December 22, 1980, to comment on the State's application. EPA also held a public hearing in Montgomery, Alabama, on December 16, 1980. Three individuals spoke at the public hearing and seven written comments were received. Their comments and EPA's responses are presented below:

Comment: All three speakers and six letters supported Alabama's application.

EPA Response: No EPA response is required.

Comment: One commenter spoke at length about Love Canal and various disposal problems in New York.

EPA Response: Only those comments bearing directly on Alabama's application will be addressed. EPA has developed Interim Status Standards to protect human health and the environment from hazards associated with land disposal of hazardous waste. EPA has determined that Alabama's standards are substantially equivalent to the Federal Interim Status Standards.

Comment: EPA has made several changes in their regulations since May 19, 1980, but the State of Alabama has not. In particular, Alabama has not changed the due date for closure plans from November 19, 1980, to the EPA due date of May 19, 1981. Alabama regulations still define "New Facilities" (4–202.58) as those existing before October 21, 1976, instead of EPA's statutory date of November 19, 1980. Alabama has not amended its regulations as did EPA on October 30, 1980. These amendments clarified storage of hazardous waste during transportation (45 FR 72024–8).

Response: Federal law allows States to have requirements more stringent than Federal requirements. These more stringent requirements are no threat to the substantial equivalency of a State program. If a State program becomes less stringent than the Federal program because of changing Federal standards, the State is required to modify its regulations accordingly.

Comment: A commenter was alarmed that Alabama had announced intentions, in the summary of comments attached to the State regulations, to change their program in the future.

Response: Federal law does not prohibit States from changing their program to being more stringent than Federal requirements.

Comment: Two comments were received highlighting areas where the Alabama program differed from the Federal program. Some persons felt that the differences meant that Alabama was not substantially equivalent. The differences include the following:

(a) The State of Alabama requires licensing of transporters.

(b) The State requires approval of the Board of Health for manifests and spill report forms.

(c) Manifests are distributed by disposal facilities for in-state shipments.

Response: The program differences do not threaten the substantial equivalence of the Alabama program since the State requirements are more stringent.

Comment: One commenter questioned whether Alabama 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. Alabama is in compliance with these requirements in that it had enacted enabling legislation before August 17, 1980, and EPA has determined that its program is substantially equivalent to the Federal program based on regulations effective November 19, 1980.

Comment: With regard to any subsequent changes in the EPA rules affecting interstate rail carriers, a commenter requested that the State be required to amend its regulations to be identical with Federal regulations.

EPA Response: EPA shares the commenter's concerns regarding the interstate movement of hazardous wastes. Alabama's regulations require transporters to comply with standards substantially equivalent 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. 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 on interstate commerce.

(42 U.S.C. 6926)

Dated: January 16, 1981.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 81-6358 Filed 2-24-81; 8:45 am]

BILLING CODE 6560-30-M

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40 CFR Part 123

[SW-3-FRL 1760-5]

Delaware; Interim Authorization; Phase I Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region III.

ACTION: Issuance of Phase I Interim Authorization of State Program.

SUMMARY: The purpose of this notice is to grant Phase I Interim authorization to the State of Delaware for its Hazardous Waste Management Program.

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. Included in these regulations which became effective 6 months after promulgation, were provisions for a transitional stage in which a State can be granted Interim Authorization to operate its Hazardous Waste Management Program in lieu of the Federal program. The Interim Authorization Program will be implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

In order to qualify for Interim Authorization, a State Hazardous Waste Program (1) must have been in existence prior to August 17, 1980, and (2) be "substantially equivalent" to the Federal program. A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33475).

A notice of public comment period and public hearing was published in the State's three major newspapers and was sent to those persons on the State and EPA mailing list 30 days prior to the hearing. A **Federal Register** Notice announcing the public comment period and the public hearing was published on November 14, 1980 (45 FR 75241) and the public hearing was held on December 15, 1980. The comment period was held open until December 22, 1980.

The only significant comment was received from an industrial concern which believes that Delaware's manifest requirements are burdensome,

inconsistent with the Federal program, and do not constitute a "substantially equivalent" program. Rather than being inconsistent with the Federal Program, EPA views Delaware's manifest system as being more stringent. 40 CFR Section 123.121(g) states that nothing precludes a State from:

(1) Adopting or enforcing requirements which are more stringent or more extensive than those required under 40 CFR Part 123, Subpart F.

(2) Operating a program with a greater scope of coverage than that required under the subpart. Where an approved program has a greater scope of coverage than required by Federal law, the additional coverage is not part of the federally approved program.

EFFECTIVE DATE: February 25, 1981.

FOR FURTHER INFORMATION CONTACT: Anthony J. Donatoni, Chief, Hazardous Materials Section, U.S. EPA, 6th & Walnut Streets, Philadelphia, PA 19106, (215) 597–7937.

SUPPLEMENTARY INFORMATION: The State of Delaware submitted its final application for Phase I Interim Authorization on November 7, 1980. After reviewing it, EPA identified several areas of concern, namely:

I. Memorandum of Agreement (MOA)

1. The State did not indicate that they would notify the Regional Administrator prior to proposing any substantial amendment to their statute, regulation or program policy.

• The State agreed to the above condition in the revised (MOA).

2. In the case of any interstate shipment for which the manifest has not been returned to the generator, the State needed to assure that it would notify the Regional Administrator, if the facility designated on the manifest is in an unauthorized State or if the shipment may have been delivered to an unauthorized State.

• The State agreed to the above condition in the revised (MOA).

II. Program Description

Compliance and enforcement—The issuance of variances, administrative orders, and the regulation of Federal and State facilities needed more clarification.

• An addendum to the Program Description provided the necessary detail and clarification.

III. Attorney General's Statement (AGS)

1. Delaware adopted EPA's regulations by reference. The State's regulations referred to some portions of the Federal regulations that it did not adopt. The Attorney General was asked to certify whether the State's entire program will still be effective.

• The AG stated that any reference to portions of the Federal regulations not adopted by the State constitute surplusage and, therefore, certified that the State's entire program would still be effective.

2. The AG did not state in a positive, unequivocal manner, that Federal Agencies are included within the State's statutory definition of "person."

• The AG stated that Federal Agencies were covered by Delaware's statute.

3. The AG was asked to provide an assurance that he would not oppose intervention by any citizen where permissive intervention may be authorized by statute, rule or regulation.

• The AG certified that he would not oppose citizen intervention under the above circumstances.

The complete application now meets all of the requirements for Phase I Interim Authorization contained in 40 CFR Part 123. The Authorization Plan submitted with the complete application specifies with sufficient detail the actions the State will make to seek and obtain Phase I Final Authorization. The Attorney General's Statement certifies (1) that the laws of the State of Delaware provide adequate authority to carry out the program described in the application; (2) that the enabling legislation for Phase I was in existence within 90 days of the promulgation of Phase I regulations and; (3) that the Authorization Plan, if carried out, would provide the State with enabling authority and regulations adequate to meet all of the requirements for final authorization. Finally, the Memorandum of Agreement meets the requirements of 40 CFR Section 123.126.

For the foregoing reasons, I have determined that Deleware qualifies for Phase I Interim Authorizations.

The State of Delaware is hereby granted, Phase I Interim Authorization to operate its Hazardous Waste Management Program in lieu of Phase I of the Federal RCRA Subtitle C Hazardous Waste Management Program in accordance with Section 3006(C) RCRA, implementing regulations found in 40 CFR Part 123 Subpart F and EPA Delegation 8–7.

(42 U.S.C. 6926)

Dated: February 18, 1981.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 81-6304 Filed 2-24-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[SW-1-FRL 1760-4]

Massachusetts Application for Phase I Interim Authorization of a State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region I.

ACTION: Approval of State Hazardous Waste Management Program.

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 Commonwealth of Massachusetts.

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. Included in these regulations, which become effective 6 months after promulgation, were provisions for a transitional stage in which states could be granted interim program authorization. The interim authorization program will be implemented in two phases corresponding to the two phases in which the underlying Federal program will take effect. On November 12, 1980 the Commonwealth of Massachusetts applied to EPA for Phase I interim authorization of its hazardous waste management program.

On November 18, 1980 EPA issued in the **Federal Register** (45 FR 76210) a notice of public hearing and public comment period on the State's application. All comments received during this period have been considered and are discussed below.

The Environmental Protection Agency (EPA) has reviewed the Massachusetts Application for interim authorization and has determined that the Massachusetts Hazardous Waste Program is substantially equivalent to the Federal program as defined by regulations promulgated under RCRA. The Commonwealth of Massachusetts is hereby granted interim authorization to operate the RCRA Subtitle C hazardous waste management program (Phase I) in accordance with Section 3006(c) of RCRA and implementing regulations found in 40 CFR 123 Subpart F.

EFFECTIVE DATE: February 25, 1981.

FOR FURTHER INFORMATION CONTACT: Gary B. Gosbee, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston,

Massachusetts 02203 [telephone (617) 223–1591].

SUPPLEMENTARY INFORMATION: The Commonwealth of Massachusetts submitted a draft application for Phase I interim authorization on September 5, 1980. In the comments to the State on the draft application, EPA identified issues in the Program Description, MOA, and Attorney General's Statement which required further clarification or amendment. With the exception of one issue discussed below these issues were addressed and resolved in the final application submitted to EPA on November 12, 1980, and the application was determined to be complete on that date.

The one issue which did necessitate additional discussion beyond that provided in the complete application concerned EPA requirements for public participation in enforcement set forth at 40 CFR 123.128(f)(2). Specifically, Massachusetts in its application relied on Rule 24(a) of the Massachusetts Rules of Civil Procedure (which is virtually identical to Rule 24(a) of the Federal Rules of Civil Procedure) as authority for the right of citizens to intervene in Civil Court proceedings. EPA, however, requested additional assurance that the Attorney General will not oppose intervention under Massachusetts Rule 24(a)(2) on the ground that the applicant's interest is adequately represented in the Commonwealth. Massachusetts has now satisfied this request by providing general assurance from the Attorney General that the Attorney General will not oppose intervention under Rule 24(a)(2) on the ground that the applicant's interest is adequately represented by the State and by explaining in detail the unusual instances in which the Attorney General reserves his right to oppose intervention on this ground. In providing this assurance and explanation the Attorney General also has explained that cities and towns and ten citizens or more are effectively given a statutory right to intervene in Massachusetts and that, therefore, intervention by such applicants for intervention would be based on Rule 24(a)(1). This assurance and explanation are set forth in a letter containing additions and clarifications of the Attorney General's Statement in the Massachusetts application for interim authorization dated January 19, 1981 from Massachusetts Attorney General Francis X. Bellotti to Regional Administrator William R. Adams.

Responsiveness Summary

In the **Federal Register** notice of November 18, 1980 (45 FR 76210), EPA gave the public until December 24, 1980 to comment on Massachusetts' application.

EPA also conducted a public hearing on December 19, 1980, in Worcester, Massachusetts. Seven presentations were made at this hearing. In addition, between November 18, 1980 and December 24, 1980, the close of the public comment period, Region I received four written comments on the Massachusetts application. All timely comments, whether presented at the hearing or in writing, were reviewed and considered in reaching a decision on the Massachusetts Application for interim authorization. Major comments are summarized below.

Comment—Five commenters urged EPA to approve the application of the Commonwealth of Massachusetts and grant Massachusetts Phase I interim authorization.

EPA response—No response needed.

Comment—One commenter opposed authorization and stated his preference for EPA to retain control of the hazardous waste management program in the Commonwealth of Massachusetts.

EPA response—EPA believes the Massachusetts program is substantially equivalent to the Phase I Federal program. Without a demonstration that information supplied by the State in its application fails to meet the test of substantial equivalence, EPA has no discretion to deny Phase I authorization to the State solely because there is a preference for Federal, as opposed to State, management of the program.

Comment—One commenter urged that Massachusetts adopt the second provision to satisfy the public participation in enforcement process required under 40 CFR 123.128(f)(2).

EPA response—EPA cannot require Massachusetts to choose one option over another in satisfying the requirements for public participation. Indeed, the two options provided in 40 CFR 123.128(f)(2) represent minimum guidelines to ensure that the public has an adequate opportunity to participate in the enforcement process. Massachusetts has met the public participation requirements through its authority to allow intervention under Rule 24(a) of the Massachusetts Rule of Civil Procedure and through general assurance to EPA from the Attorney General not to oppose intervention under Rule 24(a)(2) on the ground that the Commonwealth adequately represents the interests of the applicant. EPA has determined that this authority and this assurance are at least as stringent as the second option set forth at 40 CFR 123.128(f)(2)(ii).

Comment—One commenter stated that since the Massachusetts application was in excess of five hundred pages and since the substance of the Massachusetts application was not available in a summary, the hearing should have been postponed until further information was readily available to concerned citizens.

EPA response—EPA's regulations governing procedures for approval of a State's application require notice of receipt of the application and the availability of it for inspection and copying [See 40 CFR 123.135(a)]. There is no requirement to summarize the application and there are many good reasons for the absence of such a requirement. For example, any summary of the lengthy and complex Massachusetts application would necessarily be subjective; while many might agree that such a summary would be reasonable, undoubtedly some would not; no attempt to summarize the application would be satisfactory to all. Therefore, EPA has concluded that it is in the best interest of the public comment process not to summarize the application.

Comment—One commenter asked for an extension of the comment period until January 5, 1981, to permit a newly formed community hazardous waste committee to review and comment on the application.

EPA response—EPA believes that the 30 day period prior to the hearing plus a 5 day period following the hearing provided sufficient time for review and comment on the Massachusetts application and it would not be in the best interest of the interim authorization process to extend the comment period.

Comment—Two comments were received that dealt with general hazardous waste issues such as interstate activities and recommendations concerning facility siting, monitoring and inspection and safety.

EPA response—EPA believes that although these comments deal with the subject of hazardous waste, they do not specifically comment on the substance of the Massachusetts application for interim authorization; therefore, additional discussion in this document is not warranted.

Comment—One commenter stated that EPA should have made more copies of the Massachusetts application for interim authorization available at different locations around the State.

EPA response—EPA believes it has complied with our regulations [See 40 CFR 123.135(a) and 40 CFR 123.39(a)(1)]

by having the Massachusetts application for interim authorization available at the EPA Regional Office and at the Office of the Division of Hazardous Waste, Massachusetts Department of Environmental Quality Engineering.

For the foregoing reasons I have determined that Massachusetts qualifies for Phase I interim authorization to operate its Hazardous Waste Management Program in lieu of Phase I of the Federal RCRA Subtitle C Hazardous Waste Management Program. This issuance of interim authorization is in accordance with Section 3006(c) of RCRA, implementing regulations found in 40 CFR Part 123 Subpart F and EPA Delegation 8–7.

(42 U.S.C. 6926)

Dated: February 9, 1981.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 81-6359 Filed 2-24-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123 (Subpart F)

[SW-4-FRL 1760-1]

South Carolina'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 South Carolina.

The Environmental Protection Agency has reviewed South Carolina's Application for Interim Authorization and has determined that South Carolina'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 South Carolina is hereby granted Interim Authorization to operate the State program in lieu of the Subtitle C Hazardous Waste Management Program (Phase I) in accordance with Section 3006(c) of RCRA and implementing regulations found in 40 CFR Part 123 Subpart F.

EFFECTIVE DATE: Interim Authorization, Phase I, for South Carolina shall become effective on February 25, 1981.

FOR FURTHER INFORMATION CONTACT: Don Hunter, Residuals Management Branch, U.S. EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone (404) 881–2468.

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 South Carolina submitted its Draft Application for Phase I Interim Authorization on August 1, 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 November 18, 1980, South Carolina 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 South Carolina's Hazardous Waste Management Program. The following issues were raised by the review team:

(a) South Carolina's laws and regulations regarding delisting are not substanitally equivalent to EPA's.

(b) South Carolina's emergency regulations regarding small quantity exemptions for generators of acutely hazardous waste may be misleading.

(c) The Authorization Plan does not indicate when certain regulatory and statutory changes are to occur.

(d) The next to the last line of the Certification in the Attorney General's Statement must read "Final Authorization," not "Interim Authorization."

To resolve these issues, the State made minor revisions to its Attorney General's Statement, MOA, and Authorization Plan to clarify the following points:

(a) South Carolina revised its Memorandum of Agreement so as to include prior concurrence by EPA on all delisting activities.

(b) The emergency regulations were amended, prior to promulgation as permanent, to include small generators of acutely hazardous waste.

(c) The Authorization Plan was amended to include the dates regulatory and statutory changes will be proposed.

(d) The change from "Interim" to "Final" in the certification of the Attorney General's Statement was made.

Responsiveness Summary

As noticed in the **Federal Register** on November 28, 1980 (45 FR 79117), EPA gave the public until January 6, 1981, to comment on the State's application. EPA also held a public hearing in Columbia, South Carolina, on December 30, 1980. Eight individuals spoke at the public hearing and eight written comments were received. These comments and EPA's responses are presented below:

Comment—Five of the commenters supported the granting of Interim Authorization to the State.

EPA Response—No response needed.

Comment—One commenter supported the granting of Interim Authorization to the State, but expressed concern with EPA's unlimited access to proprietary information and the possible abrogation of private organizations' rights to protect such proprietary information. The commenter was especially concerned that RCRA does not expressly require States seeking Interim Authorization to submit this information, obtained by the State pursuant to its own statutory requirements to EPA. The commenter suggested that the submitter of confidential information be notified of the intent to transfer to EPA any such material prior to its release, and that the submitter be afforded the right to independently assert claims of confidentiality to EPA or any other authorized representative, as appropriate.

EPA Response—While the State must provide information to EPA upon request, all claims of confidentiality made to the State will be subject to formal decision by EPA under Federal regulations to determine whether it is entitled to confidential treatment.

EPA will notify, at least 10 days prior to release, the holder of the claim of confidentiality of its decision on confidentiality. The holder may initiate court review of that decision.

Comment—Seven commenters expressed concern about discrepancies between the requirements of the State and Federal programs. Five of the commenters did not identify specific discrepancies but indicated that they were discrepancies resulting in the State program requirements being more stringent than the Federal program. Most of these commenters supported relaxing the State program requirements that are more stringent. One stated that Interim Authorization should be denied until the inconsistencies were eliminated.

One of the commenters was specifically concerned about the greater stringency of the State program in the following areas:

(1) EPA exempts wastewater treatment impoundments used solely for the neutralization of corrosive liquids, if they have NPDES permits. South Carolina does not exempt these facilities.

(2) EPA has delayed inclusion of asbestos in its hazardous waste program. South Carolina has not.

(3) EPA has temporarily exempted wastes produced by the combustion of fossil fuels. South Carolina has not.

(4) Differences in coverage and approach between the State and Federal hazardous waste programs. For example, additions to or deletions of wastes from both programs have made it difficult for hazardous waste handlers in the State to determine how to comply with the hazardous waste notification requirements. Also under the Federal program the deadline for permit applications may be extended for certain facilities if it was not clear previously that those facilities were subject to the hazardous waste regulations. This necessary flexibility is missing from the South Carolina program.

Another commenter was particularly concerned that the chromium waste and certain dry metal dust used in fertilizer manufacturing which are excluded by the Federal program are not excluded by the State. The State is requiring compliance schedules for the temporary storage of this material. Also where Federal E.P. toxicity limits are 100 times the Drinking Water Standards (DWS), the State uses the more stringent 10 times DWS.

EPA Response—EPA recognizes these areas where the State program is more stringent than the Federal program, however, Federal law does not prohibit more stringent State standards.

Comment—The remarks of one commenter were directed towards the operation of a secure chemical landfill in the State. The commenter stated that the South Carolina Department of Health and Environmental Control was not informed of alleged problems at the facility.

EPA Response—EPA has investigated the allegations and found them to lack merit. In addition, the existing facility must comply with technical facility standards. EPA has determined that the State's application has shown that substantially equivalent hazardous waste management facility standards will be imposed by the State. EPA, through its overview, will act to insure that the State will closely regulate the operation of this facility.

Comment

One commenter had three main comments regarding transportation by rail. These are:

(1) The State's regulations are not substantially equivalent to the Federal standards for rail tranporters regarding the manifest system. South Carolina regulations require that the manifest accompany *all* waste shipments in the State, while Federal regulations allow for the forwarding of the manifest from the first rail transporter to the facility (if it is at the end of the rail line), to the first non-rail transporter, or to the last rail transporter within the U.S.

(2) According to the commenter, referencing the April 28, 1978, **Federal Register**, States are not allowed to permit or license transporters. South Carolina requires that transporters of shipments that originate or are delivered in the State obtain permits.

(3) The commenter also contends that the State will assign its own identification (I.D.) number. This may present a problem for carriers operating in more than one State.

EPA Response

(1) The requirement by South Carolina that a manifest accompany all hazardous waste shipments, including rail shipments, represents a more stringent aspect of its program, and, as such, is permissible and does not represent reason for denial of Interim Authorization.

The State, in recognizing that it is more stringent in this regard, has indicated that it will grant variances, as allowed for it its program, on a carrier by carrier basis. These variances to the manifest requirements, as they pertain to rail transporters only, will be no less stringent than the Federal regulations.

(2) Contrary to the opinion expressed in this comment, States may permit transporters. It must be pointed out that the regulations referenced were *Proposed* rules only, and even as such were not intended to deny States the option of requiring transporter permits. It simply indicated that EPA will not develop a Federal permitting program for transporters.

(3) EPA will transfer to South Carolina, upon granting Interim Authorization, a list of all current EPA I.D. numbers for existing facilities in South Carolina. As I.D. numbers are needed for new facilities and transporters, the State will request that EPA assign them.

Comment

One commenter was not completely supportive of the granting of Interim Authorization to the State because:

(1) The State regulations are different and often more restrictive than Federal regulations and require more paperwork than is required under the Federal regulations. The additional requirements are not necessary to protect the environment and would cost the company substantially more.

(2) The State regulations, as now written, will not accommodate changes in the Federal regulations without lengthy delays and going back to the State Legislature for each change. The commenter believes that South Carolina should have provisions for adopting Federal amendments without lengthy delays.

(3) The commenter expressed concern over the lack of time for review of the application and the length of time it took to receive a copy of the emergency regulations from the State.

(4) The commenter also expressed concern that the public hearing was held at an inconvenient time and encouraged EPA to hold another hearing.

EPA Responses

(1) EPA recognizes that the State program is more stringent than the Federal program in certain areas and that the additional requirements may impose additional financial and administrative burdens. Federal law does not prohibit more stringent State program requirements.

(2) Where amendments to the Federal regulations might impose requirements that are more stringent than existing State regulations, the State would be given a reasonable amount of time to revise State regulations to ensure its program remains substantially equivalent.

(3) EPA has determined that a 30-day period for public comment provides

adequate opportunity to review and comment. The State application that was available for public review contained the emergency State regulations.

(4) The date of the public hearing was controlled by the administrative process and the scheduling of the hearing during the holidays was unavoidable. Still, the attendance at the South Carolina hearing was one of the largest of any State in the Region, with approximately 45 people in attendance. EPA has determined that an additional public hearing is not warranted.

42 U.S.C. 6926

Dated: February 3, 1981.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 81-6357 Filed 2-24-81; 8:45 am]

BILLING CODE 6560-30-M

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40 CFR Part 180

[PP 7F1878/R294; PH-FRL 1761-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This regulation establishes tolerances for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) including its hydrolysis product 1-naphthol (naphthyl sulfate), calculated as 1-naphthyl *N*-methyl carbamate in or on wheat grain at 3 parts per million (ppm); carbaryl (1-naphthyl *N*-methylcarbamate) including its metabolites 1-naphthol (naphthyl sulfate), 5,6-dihydrodihydroxycarbaryl, and 5,6-dihydrodihydroxy-naphthol, calculated as 1-naphthyl *N*-methylcarbamate in or on the liver and kidney of cattle, goats, horses, sheep, and swine at 1 ppm; and the meat, fat, and meat byproducts of cattle, goats, horses, sheep, and swine at 0.1 ppm; and carbaryl (1-naphthyl *N*-methylcarbamate), including its metabolites 1-naphthol (naphthyl sulfate), 5,6-dihydrodihydroxycarbaryl and 5-methoxy-6-hydroxycarbaryl, calculated as 1-naphthyl *N*-methylcarbamate in or on milk at 0.3 ppm. This regulation was requested by Union Carbide Corp. This regulation will establish the maximum permissible levels for residues of carbaryl on the above commodities.

EFFECTIVE DATE: Effective on February 25, 1981.

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

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Rm. 400, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7024).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of November 18, 1976 (41 FR 50854) that Union Carbide Corp., 7825 Baymeadows Way, Jacksonville, FL 32216, had submitted a pesticide petition (7F1978) to the EPA. The petition proposed that tolerances be established to cover residues of the insecticide carbaryl (1-naphthyl *N*-methyl-carbamate), including its hydrolysis product 1-naphthol, calculated as 1-naphthyl *N*-methyl-carbamate, in or on the raw agricultural commodities barley grain, oat grain, rye grain, and wheat grain at 3.0 ppm; in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 1.0 ppm; and in milk at 0.2 ppm.

Subsequently, the petitioner amended the petition by deleting the raw agricultural commodities barley grain, oat grain, and rye grain from the proposed tolerance, increasing the proposed tolerance for milk from 0.2 ppm to 0.3 ppm; and adding the metabolites 5,6-dihydrodihydroxy carbaryl and 5,6-dihydrodihydroxy naphthol, calculated as 1-naphthyl *N*-methylcarbamate to the tolerance expression for liver and kidney of cattle, sheep, goats, horses, and swine; and the meat, fat, and meat byproducts of cattle, sheep, goats, horses, and swine; and added the metabolites 5,6-dihydrodihydroxycarbaryl and 5-methoxy-6-hydroxycarbaryl, calculated as 1-naphthyl *N*-methylcarbamate to the tolerance expression for milk.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a 2-year rat feeding study with a no-observable-effect-level (NOEL) of the 200 ppm (highest level fed); a 1-year dog subchronic feeding study with a NOEL of 400 ppm; a Rhesus monkey teratology study, which was negative at 20 milligrams (mg)/kilogram (kg) of body weight (bw)/day (highest level fed); an 18-month mouse oncogenicity study which was negative at up to 400 ppm; a 3-generation rat reproduction study with a NOEL of 3 mg/kg of bw/day. Based on the 2-year rat feeding study with a 200 ppm NOEL and using a safety factor of 100, the acceptable daily intake (ADI) for humans is 0.1 mg/kg/day. The theoretical maximal residue contribution (TMRC) in the human diet from previously established and proposed tolerances does not exceed the ADI.

The metabolism of carbaryl is adequately understood, and an adequate analytical method (spectrophotometric determination) is available for enforcement purposes. "A Notice of Determination Not to Initiate a Rebuttable Presumption Against Registration (RPAR) was published in the **Federal Register** of December 12, 1980. Carbaryl was under consideration for the RPAR process primarily because two laboratory studies conducted in the late 1960's indicated that carbaryl induced teratogencity (birth defects) when administered in low doses to pregnant beagle dogs. EPA reviewed the risks associated with the use of carbaryl and determined that 40 CFR risk criteria warranting an RPAR had not been met or exceeded. Carbaryl was therefore returned to the registration process." Therefore, delete "However." The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances will protect the public health. Therefore, 40 CFR Part 180 is amended as set forth below.

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

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044. Effective on: February 25, 1981.

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

Dated: February 12, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR 180.169 is amended by redesignating the existing text as paragraph (a), alphabetically inserting the raw agricultural commodity "wheat grain" in the table under paragraph (a), and adding new paragraphs (b) and (c) to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

(a) * * *

Commodity	Part per million
* * * * *	
Wheat (grain)	3
* * * * *	

(b) Tolerances are established for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) including its metabolites 1-naphthol (naphthyl-sulfate), 5,6-dihydrodihydroxycarbaryl, and 5,6-dihydrodihydroxy naphthol, calculated as 1-naphthyl *N*-methylcarbamate in or on the following raw agricultural commodities:

Commodities	Part per million
Cattle, fat	0.1
Cattle, kidney	1
Cattle, liver	1
Cattle, meat	0.1
Cattle (mbyp)	0.1
Goats, fat	0.1
Goats, kidney	1
Goats, liver	1
Goats, meat	0.1
Goats (mbyp)	0.1
Horses, fat	0.1
Horses, kidney	1
Horses, liver	1
Horses, meat	0.1
Horses (mbyp)	0.1
Sheep, fat	0.1
Sheep, kidney	1
Sheep, liver	1
Sheep, meat	0.1
Sheep (mbyp)	0.1
Swine, fat	0.1
Swine, kidney	1
Swine, liver	1
Swine, meat	0.1
Swine (mbyp)	0.1

(c) A tolerance is established for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate), including its metabolites 1-naphthol (naphthyl sulfate), 5,6-dihydro-dihydroxycarbaryl and 5-methoxy-6-hydroxycarbaryl, calculated as 1-naphthyl *N*-methylcarbamate in or on the raw agricultural commodity milk at 0.3 ppm.

[FR Doc. 81-6355 Filed 2-24-81; 8:45 am]

BILLING CODE 6560-32-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 105-61

[ADM 7900.2 CHGE 16]

Public Use of Records, Donated Historical Materials, and Facilities in the National Archives and Records Service; Restrictions on Use of Records

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This rule provides specifications regarding the use of accessioned records of the Department of the Treasury. Specifically, this revision abolishes two of the three current restrictions on access to these records. The purpose of the revision is to make accessioned records of the Department of the Treasury more accessible to the public.

EFFECTIVE DATE: February 25, 1981.

FOR FURTHER INFORMATION CONTACT: Clarence F. Lyons, Judicial and Fiscal Branch (202-523-3059).

SUPPLEMENTARY INFORMATION: 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.

PART 105-61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

Subpart 105-61.53—Restrictions on the Use of Records

1. Section 105-61.5303-56 is revised to read as follows:

§ 105-61.5303-56 General Records of the Department of the Treasury.

(a) *Records.* Samples of series of recorded radio programs sponsored by the Treasury Department during 1941-48.

(b) *Restrictions.* There are copyright or contractural restrictions applicable to most of these recordings. No recordings with contractural restrictions may be reproduced without the consent of the Department of the Treasury.

(c) *Specified by.* Department of the Treasury.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: February 10, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-6232 Filed 2-24-81; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 110

Requirements for a Health Maintenance Organization

AGENCY: Public Health Service, HHS.

ACTION: Final regulations; delayed effective date.

SUMMARY: This document postpones until March 30, 1981, the effective date of final regulations to amend the requirements for the operation of federally qualified health maintenance organizations (HMOs) regarding the disclosure of certain information by HMOs to members, potential members, and employers published at 46 FR 6354, January 21, 1981. These postponed amendments are made to coordinate the requirements of the Employee Retirement Income Security Act of 1974 (ERISA) and Title XIII of the Public Health Service Act so as to avoid any duplicative or otherwise unnecessary requirements that might result from the interaction of these laws.

DATE: The effective date of the final regulations (42 CFR Part 110) relating to requirements for a health maintenance organization published at 46 FR 6354, January 21, 1981 is March 30, 1981.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: The final regulations were published in the **Federal Register** on Wednesday, January 21, 1981, (46 FR 6354) and were to become effective on February 20, 1981. Postponement of the effective date is necessary to comply with the President's January 29, 1981, memorandum on postponement of pending regulations, which directed Federal agencies to postpone for 60 days from the date of the memorandum the effective date of all regulations promulgated in final form that were scheduled to become effective during this 60 day period. The Department of Labor has also decided to postpone the effective date of a companion set of

final regulations that were published in the **Federal Register** on January 21, 1981, (46 FR 5882–5).

Because § 110.108(c)(1), as amended, provides for reporting and recordkeeping requirements which are subject to the Federal Reports Act of 1942, the Department is required to submit this regulation to the Office of Management and Budget (OMB) for review and approval. The Department will, therefore, submit this section to OMB and will publish a notice on March 30 indicating the status of OMB's review.

Accordingly, the effective date in the preamble of the final regulations to amend 42 CFR Part 110 appearing on page 6354 of the **Federal Register** of January 21, 1981 is revised to read:

EFFECTIVE DATE: These regulations are effective on March 30, 1981.

Dated: February 11, 1981.

Approved: February 20, 1981.

Charles Miller,

Acting Assistant Secretary for Health.

Richard S. Schweiker,

Secretary.

[FR Doc. 81-6427 Filed 2-24-81; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5857

[CA-6961]

California; Modification of Secretarial Order Dated October 26, 1906

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document modifies an order which withdrew lands for a ranger station by restoring 10 acres to operation of the public land laws generally. The Forest Service intends to consummate an exchange. The lands remain withdrawn under the mining laws.

EFFECTIVE DATE: February 25, 1981.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office 916–484–4431.

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

1. Secretarial Order of October 26, 1906, which withdrew lands within the Trinity National Forest from all forms of appropriation under the public land laws, for use by the Forest Service, Department of Agriculture, for ranger stations, is hereby modified to delete the following words: "from all forms of appropriation under the public land laws," so far as they relate to the following described lands:

Trinity National Forest

Humbolt Meridian

T. 3 N., R. 6 E.,
Sec. 25, NE¼NE¼NW¼.
The area aggregates 10 acres in Trinity County.

2. Effective immediately, the above described lands shall be open to applications for the disposal of the lands under the General Exchange Act of March 20, 1922, 42 Stat. 465, as amended, 16 U.S.C. 485, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The lands remain withdrawn under the mining laws 30 U.S.C. Ch. 2.

James G. Watt,

Secretary of the Interior.

February 18, 1981.

[FR Doc. 81-6234 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5858

[OR-19206]

Oregon; Revocation of Stock Driveway Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two Secretarial orders which withdrew 3,917.39 acres of land for use as a stock driveway. This action will restore the lands to operation of the public land laws generally.

EFFECTIVE DATE: March 26, 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. The Secretarial Orders of September 25, 1919, and October 7, 1919, which withdrew the following described public lands for stock driveway purposes are hereby revoked:

Willamette Meridian

T. 10 S., R. 19 E.,
Sec. 20, W½SW¼;
Sec. 25, N½ and SE¼;
Sec. 26, N½;
Sec. 27, N½;
Sec. 28, N½;
Sec. 29, E½NE¼, NW¼NE¼, and NW¼NW¼;
Sec. 30, lot 1, N½NE¼, and NE¼NW¼.
T. 10 S., R. 20 E.,
Sec. 14, SW¼ and W½SE¼;
Sec. 22, E½ and SW¼;
Sec. 28, E½, E½SW¼, and SW¼SW¼;
Sec. 30, lots 3 and 4, SE¼, and E½SW¼;
Sec. 31, NE¼;
Sec. 32, E½NE¼, SW¼NE¼, and NW¼;
Sec. 33, NW¼.
The areas described aggregate 3,917.39 acres in Jefferson and Wheeler Counties.

2. At 10 a.m. on March 26, 1981, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 26, 1981, shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

3. The lands have been and continue to be open to location under the United States mining laws and 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.

James G. Watt,

Secretary of the Interior.

February 18, 1981.

[FR Doc. 81-6235 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5859

[OR 20417]

Oregon; Revocation of Recreational Withdrawal No. 23

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order which withdrew 120 acres for protection of recreational values. This action will restore the lands to operation to the mining laws.

EFFECTIVE DATE: March 26, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office 503–231–6905.

By virtue of 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. The Secretarial Order of July 5, 1929, which withdrew the following described lands for protection of recreational values is hereby revoked:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 2 S., R. 6 E.,
Sec. 21, SE¼SW¼ and S½SE¼.

The area described contains 120 acres in Clackamas County.

2. At. 10 a.m., on March 26, 1981, the lands will be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

3. The lands remain segregated from operation of the public land laws generally by Power Site Reserve No. 660 of December 12, 1917, and Water Power Designation No. 14 of December 12, 1917.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

James G. Watt,

Secretary of the Interior.

February 18, 1981.

[FR Doc. 81-6236 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-214; RM-3443]

Radio Broadcast Services, FM Broadcast Stations in Beaufort and Ridgeland, S.C.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 285A to Ridgeland, South Carolina, as that community's first FM assignment, and substitutes Class C Channel 259 for Channel 285A at Beaufort, South Carolina, at the request of J. Olin Tice, Jr. The present applicants for Channel 285A at Beaufort, are permitted to amend their applications to specify Channel 259.

EFFECTIVE DATE: March 24, 1981.

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

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Beaufort and Ridgeland, South Carolina), BC Docket No. 80-214, RM-3443.

Report and Order

(Proceeding Terminated)

Adopted: February 4, 1981.

Released: February 11, 1981.

By the Chief, Policy and Rules Division:

1. Before the Commission is a *Notice of Proposed Rule Making*, 45 FR 34934, published May 23, 1980, proposing the substitution of Class C FM Channel 259 or Channel 261A for Channel 285A at Beaufort, South Carolina, and the reassignment of Channel 285A to Ridgeland, South Carolina, as that community's first FM assignment. Comments were filed by the petitioner, J. Olin Tice, Jr. ("petitioner"); Beaufort County Broadcasting Company ("BCBC"), an applicant for Channel 285A at Beaufort; [1] and Barnacle Broadcasting Ltd. ("Barnacle"), applicant for Channel 285A at Port Royal, [2] under the "10-mile" rule. [3]

2. Petitioner supports the proposed assignments and reiterates his intent to apply for authority to build and operate a station on Channel 285A at Ridgeland, if assigned. [4] Petitioner also notes that substituting Channel 259 for Channel 285A at Beaufort, will further the Commission policy of avoiding intermixture of Class A and Class C stations in the same community. BCBC supports the substitution of Class C Channel 259 for Channel 285A at Beaufort, and states that a suitable transmitter site for the channel is available. [5] BCBC asserts that Beaufort is the most desirable city for a Class C assignment within the limited area in which the channel can be assigned, and that assigning Channel 259 to Beaufort is more efficient than assigning Channel 261A. According to BCBC, the assignment of Channel 261A to Beaufort would preclude the use of Channel 259 in virtually the entire area where the channel may now be assigned. BCBC avers that the preclusive impact of assigning Channel 259 to Beaufort is minimal. Finally, BCBC states that it supports the channel substitution in Beaufort only if its "cut-off" status as an applicant for the channel is retained. Barnacle states in its comments that it will amend its application to specify any channel which the Commission substitutes for Channel 285A in Beaufort. However, Barnacle, like BCBC, states that its "cut-off" status should remain intact.

3. In reply comments, BCBC notes that no comments were filed which opposed the proposed assignments, and no parties indicated an interest in applying for Channel 259 if it were assigned to Beaufort. BCBC therefore concludes that the proposed assignments should be made and that its "cut-off" status should be protected. Barnacle's reply comments made a similar argument. Barnacle agrees to the channel substitution in Beaufort only if the newly assigned channel is not opened up for new applications.

4. Ridgeland (pop. 1,165), [6] seat of Jasper County (pop. 11,885), is located approximately 101 kilometers (63 miles) southwest of Charleston, South Carolina. Ridgeland is served locally by daytime-only AM Station WBUG. Beaufort (pop. 9,433), seat of Beaufort County (pop. 51,136), is located approximately 80 kilometers (50 miles) southwest of Charleston, and 29 kilometers (18 miles) east of Ridgeland. It is served locally by full-time AM Station WSIB, daytime-only AM Station WBEU and Station WBEU-FM (Channel 254).

5. Petitioner has shown a need for the assignment at Ridgeland, especially since the assignment can provide the city with its first full-time radio service. Likewise, the substitution of Class C Channel 259 for Channel 285A at Beaufort, appears to be in the public interest. The substitution removes an intermixture situation in Beaufort. Also, according to BCBC, the preclusive effect of assigning the Class C station to Beaufort is only slightly greater than the preclusive effect of assigning the Class A channel. As indicated above, a transmitter site restriction of 6 kilometers (3.8 miles) east of Ridgeland, is required for Channel 285A, and a site restriction of 16 kilometers (10.2 miles) north northeast of Beaufort is required for Channel 259.

6. With regard to the pending applications for the unused channel at Beaufort, BCBC and Barnacle may amend their applications to specify use of Channel 259 and retain their cut-off status. No other interest in the proposed new assignment has been expressed in comments despite being given an opportunity to do so. Therefore we believe it appropriate to retain the cut-off protection of these applicants in amending to Channel 259. *Cf. Fort Walton Beach, Florida*, 62 FCC 2d 76 (1977); *Flora, Illinois*, 18 FCC 2d 663, 666 (1969).

[1] FCC File No. BPH-790918AC.

[2] FCC File No. BPH-800519AF.

[3] Section 73.203(b) of the Commission's Rules.

[4] The use of Channel 285A at Ridgeland requires a site restriction of 6 kilometers (3.8 miles) east of the community.

[5] The use of Channel 259 at Beaufort requires a site restriction of 16 kilometers (10.2 miles) north northeast of Beaufort.

[6] Population figures are taken from the 1970 U.S. Census.

7. Accordingly, it is ordered, That effective March 24, 1981, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the communities listed below as follows:

City	Channel No.
Beaufort, South Carolina	254, 259
Ridgeland, South Carolina	265A

8. Authority for the actions taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

9. It is further ordered, That the Secretary of the Commission shall send a copy of this *Report and Order* by certified mail, return receipt requested, to Beaufort County Broadcasting Company, P.O. Box 7398, Chatsworth, Georgia 30705; and to Barnacle Broadcasting Ltd., 2964 Peachtree Street, Suite 740, Atlanta, Georgia 30355.

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

11. For further information concerning this proceeding contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-6298 Filed 2-24-81; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 46, No. 37
Wednesday, February 25, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 30

Amendment of Exemption for Ionizing Radiation Measuring Instruments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its rules of general applicability to domestic licensing of byproduct material so that persons exempt from licensing and regulatory requirements may receive, use, and transfer ionizing radiation measuring instruments containing multiple internal calibration or standardization sources of byproduct material. The amendments are being proposed in response to a petition for rulemaking filed by General Atomic Company to permit distribution to exempt persons of multiple function instruments important to monitoring radiation and radioactive materials in and around major nuclear facilities. The proposed action would relieve all persons from the requirement to obtain a specific license to the extent that they receive, use, or transfer radiation ionizing measuring instruments containing, for purposes of internal calibration or standardization, sources of byproduct material each not exceeding the pertinent exempt quantity.

DATES: Comment period expires April 13, 1981. Comments received after April 13, 1981 will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before April 13, 1981.

ADDRESSES: All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of correspondence cited below and comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. J. J. Henry, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301)–443–5946.

SUPPLEMENTARY INFORMATION: By letter dated August 5, 1980, Mr. William R. Mowry, on behalf of General Atomic Company, filed a request for administrative clarification of the Commission's regulation 10 CFR 30.15(a)(9) so that a person exempt from licensing and regulatory requirements may receive, use, and transfer an ionizing radiation measuring instrument containing, for purposes of internal calibration or standardization, more than one source of byproduct material each not exceeding an applicable exempt quantity.

Rulemaking Initiation

The letter from General Atomic was filed following a meeting between the staff and the company on June 26, 1980, to review various alternatives in light of a position expressed in a letter dated June 11, 1980, to General Atomic in which the staff indicated that the Commission could not license the company to distribute certain ionizing radiation measuring instruments to persons exempt from regulation because those instruments contain more than one source of byproduct material.

In the June 11, 1980, letter, the staff stated the following view:

> * * * the exemption specified in section 30.15(a)(9) of 10 CFR 30 only refers to ionizing radiation measuring instruments containing *a source* of byproduct material.

On September 9, 1980, the letter from General Atomic was assigned Docket No. PRM 30–57 as a petition for rulemaking requesting the Commission to amend its regulations in 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material."

Basis for Request

In support of the petition, General Atomic stated, in part:

> * * * it seem(s) evident that the particular language of the regulations, read to limit licenses of instruments containing byproduct material to persons exempt from regulation to a single source per instrument, was in effect the result of a situation not envisioned at the time of drafting * * *

General Atomic also stated that the petitioner's ionizing radiation measuring instruments are devices that perform several radiation monitoring functions, and:

> * * * the instruments would have to be redesignated, each as a single function instrument with a single exempt quantity byproduct source. To do so would increase costs and delay delivery of instrumentation important to monitoring radiation and radioactive materials in and around major nuclear facilities. There is no compromise of public health and safety by permitting use of more than one source in a single multi-functional device.

Request for Comments on Petition

A notice of filing of petition for rulemaking was published in the **Federal Register** on October 14, 1980 (45 FR 67673). The comment period expired December 15, 1980. No letters of comment were received in response to the notice.

Previous Actions

On April 22, 1970, the Atomic Energy Commission (the predecessor of the NRC) published in the **Federal Register** (35 FR 6426) new 10 CFR 30.18, "Exempt quantities," exempting from licensing requirements the receipt, possession, use, transfer, ownership, or acquisition of byproduct material in individual quantities each of which does not exceed the applicable quantity set forth in new 10 CFR 30.71, "Schedule B." A conforming amendment, new 10 CFR 32.18, "Manufacture, distribution and transfer of exempt quantities of byproduct material: requirements for license," indicated clearly the types of material that commerical suppliers may distribute as exempt quantities and also prohibited incorporation of exempt quantities of byproduct material in any manufactured or assembled commodity, product, or device for commercial distribution.

As one consequence of the above prohibition, the Commission added another conforming amendment, new 10 CFR 30.15(a)(9), to provide an exemption from licensing requirements for possession and use of ionizing radiation measuring instruments containing internal calibration or standardization

sources of byproduct material in amounts not exceeding the pertinent schedule of exempt quantities. In the preamble to the final rule, the Commission stated:

> Such sources, when installed inside instruments, constitute a smaller risk than as separate quantities, and specific provision for their use under exemption is warranted.

The final rule, 10 CFR 30.15(a)(9), states:

> *§ 30.15 Certain items containing byproduct material.*
>
> (a) Except for persons who apply byproduct material to, or persons who incorporate byproduct material into, the following products, or persons who initially transfer for sale or distribution the following products containing byproduct material, any person is exempt from the requirements for a license set forth in Section 81 of the Act and from the regulations in Parts 20 and 30–35 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires the following products:
>
> * * * * *
>
> (9) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, a source of byproduct material not exceeding the applicable quantity set forth in § 30.71, Schedule B.

Proposed Action

The Commission considers that multiple sources, when installed inside instruments, would be consistent with both the language and the intent of the preamble published April 22, 1970, that set out the basis for the exemption of ionizing radiation measuring instruments.

Accordingly, the Commission is proposing to amend the language of the exemption for ionizing radiation measuring instruments to refer to sources of byproduct material each not exceeding the applicable quantity set forth in 10 CFR 30.71, "Schedule B."

Conforming Amendment

The Commission recognizes that 10 CFR 32.14, "Certain items containing byproduct material: requirements for license to apply or initially transfer," sets out a requirement that each product specified in 10 CFR 30.15 must contain no more than the quantity of byproduct material specified for that product in 10 CFR 30.15.

To assure that each ionizing radiation measuring instrument contains a specified quantity of byproduct material, the Commission is proposing a conforming amendment of 10 CFR 30.71 to add a new note stating in effect that, for purposes of 10 CFR 30.15(a)(9), where an ionizing radiation measuring instrument contains a combination of radionuclides, the instrument will contain no more than one exempt quantity of a single radionuclide or no more than ten exempt quantities of a combination of radionuclides.

Findings

In the preamble to the final rule published in the **Federal Register** on April 22, 1970 (35 FR 6427), the Commission found that the exemption from licensing of ionizing radiation measuring instruments containing certain internal calibration or standardization sources under the conditions set forth in 10 CFR 30.15(a)(9) will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

The Commission is considering a finding that the proposed amendments set forth below are of a minor or nonpolicy nature, do not substantially modify existing regulations, and will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

Regulatory Flexibility Certification

Based upon the limited information available to it concerning the size and nature of entities likely to be affected by this amendment, the Commission, in accordance with sec. 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule will affect General Atomic Company (the petitioner for the action being proposed) and its customers who need ionizing radiation measuring instruments that are the subject of the proposed action. General Atomic Company is an affiliate of Gulf Oil Corporation and Royal Dutch/Shell Group. General Atomic Company was worth $56 million, had $100 million in sales, and had 2400 employees in 1979 (information from EIS INDUSTRIAL PLANTS data base). The customers consist of less than ten companies which have construction permits to build nuclear power plants. These companies are dominant in their service areas, and do not fall within the scope of the definition of "small entities" set forth in section 601(3) of the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 30 is contemplated.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. In § 30.15, paragraph (a)(9) is revised to read as follows:

§ 30.15 Certain items containing byproduct material.

(a) * * *

(9) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, sources of byproduct material each not exceeding the applicable quantity set forth in 30.71, Schedule B, Note 1.

* * * * *

2. In § 30.71, a new Note 1 is added immediately following the table to read as follows:

§ 30.71 Schedule B.

* * * * *

Note 1.—For purposes of § 30.15(a)(9) where there is involved a combination of radionuclides, the limit for the combination should be derived as follows: Determine for each radionuclide in an ionizing radiation measuring instrument the ratio between the quantity present in the instrument and the exempt quantity established in Schedule B for the specific radionuclide when not in combination. No ratio is to exceed one (1) and the sum of the ratios must not exceed ten (10).

Examples:

$$\frac{\text{Quantity of Radionuclide A in Instrument}}{\text{Exempt Quantity of Radionuclide A}} < 1$$

$$\frac{\text{Quantity of Radionuclide A in Instrument}}{\text{Exempt Quantity of Radionuclide A}} +$$

$$\frac{\text{Quantity of Radionuclide B in Instrument}}{\text{Exempt Quantity of Radionuclide B}} < 2$$

$$\frac{\text{Quantity of Radionuclide A in Instrument}}{\text{Exempt Quantity of Radionuclide A}} + \ldots +$$

$$\frac{\text{Quantity of ith Radionuclide in Instrument}}{\text{Exempt Quantity of ith Radionuclide}} < 10$$

(Secs. 81, 161i, Pub. L. 83–703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201i); sec. 201, Pub. L. 93–438, 88 Stat. 1242, Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841))

Dated at Bethesda, MD, this 17th day of February 1981.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 81-6283 Filed 2-24-81; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 40

[Docket No. PRM-40-23]

Sierra Club; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of Petition for Rulemaking from Sierra Club.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment a petition for rulemaking filed before the Commission on December 5, 1980, by the Sierra Club. The petition, which has been assigned Docket No. PRM-40-23, requests that the Commission amend its regulation, 10 CFR Part 40, to license the possession of uranium mill tailings at inactive storage sites.

DATE: Comment period expires April 27, 1981.

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

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

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

SUPPLEMENTARY INFORMATION: The petitioner states "* * * the Commission violated section 81 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2111, in that it exempted * * * [uranium mill tailings and inactive storage sites] * * * from licensing as byproduct material without making the express findings required by section 81 that such exemption will not constitute an unreasonable risk * * * to the health and safety of the public." Also, the petitioner states that "* * * such classes or sites of byproduct materials do imperil public health and safety and, accordingly, that no exemption therefor can be justified under the Atomic Energy Act."

The petitioner requests that the Commission grant relief as follows:

(1) The Commission should repeal the purported licensing exemption for the 'inactive' uranium mill tailings sites which are subject to the remedial program of the Department of Energy under the Uranium Mill Tailings Radiation Control Act of 1978, Pub. L. 95-604. This exemption is set forth in the amendments to 10 CFR 40 promulgated by the Commission in 45 FR 65521 (October 3, 1980). This repeal could be accomplished by (a) deleting the last sentence of § 40.1(a) of such regulations; (b) deleting subparagraph (a) of § 40.21; and (c) revising subparagraph (b) of § 40.2a to provide that the Commission will require a license for possession of byproduct material that is located at a site where milling operations are no longer active.

(2) The Commission should further amend section 40.2a of such regulations to provide that the Commission will require a license for possession of byproduct material located on any other real property or improvement thereon which is in the vicinity of the 'inactive' mill tailings sites referred to in (1) above, where such byproduct materials on these vicinity property have been derived from such sites.

(3) Alternatively, the Commission should conduct a rulemaking to determine whether a licensing exemption of such sites or classes of byproduct material, referred to above, will "constitute an unreasonable risk to the health and safety of the public."

Dated at Washington, D.C., this 19th day of February 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-6284 Filed 2-24-81; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

National Park System Units in Alaska; Extension of Comment Period

AGENCY: National Park Service, Interior.

ACTION: Extension of comment period.

SUMMARY: On January 19, 1981 the National Park Service proposed rules for the interim management of National Park System Units in Alaska. 46 FR 5641 *et seq.* The comment period established in the proposed rules is hereby extended to March 16, 1981.

DATES: The National Park Service will consider all comments on the proposed rule that are received by 5:00 pm (AST), March 16, 1981.

ADDRESS: Comments should be directed to: Alaska Regional Director, National Park Service, 540 West 5th Avenue, Anchorage, Alaska 99501.

FOR FURTHER INFORMATION CONTACT: John Cook, Alaska Regional Director, National Park Service, 540 West 5th Avenue, Anchorage, Alaska 99501 (907-271-4196).

SUPPLEMENTARY INFORMATION: The January 19, 1981 proposed rules requested that written comments be submitted to the National Park Service by March 5, 1981. This deadline has been extended until March 16, 1981 in order to compensate for some initial delays in disseminating the proposed rules in Alaska.

Dated: February 19, 1981.

Russell E. Dickerson,

Director, National Park Service.

[FR Doc. 81-6310 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-70-M

Fish and Wildlife Service

50 CFR Part 36

Alaska National Wildlife Refuges; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of comment period.

SUMMARY: On January 19, 1981 the Fish and Wildlife Service proposed rules for the interim management of Alaska National Wildlife Refuges, 46 FR 5669 *et seq.* The comment period established in the proposed rules is hereby extended to March 16, 1981.

DATES: The Service will consider all comments on the proposed rule that are received by 5:00 p.m. (AST) March 16, 1981.

ADDRESS: Comments should be directed to: Alaska Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99507.

FOR FURTHER INFORMATION CONTACT: Keith Schreiner, Alaska Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99507 (907-276-3800), or William C. Reffalt, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Room 2349, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4791).

SUPPLEMENTARY INFORMATION: The January 19, 1981 proposed rule requested that written comments be submitted to the Fish and Wildlife Service by March 5, 1981. This deadline has been extended until March 16, 1981 in order to compensate for some initial delays in disseminating the proposed rules in Alaska.

Dated: February 20, 1981.

F. Eugene Hester,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-6311 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 46, No. 37
Wednesday, February 25, 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.

DEPARTMENT OF AGRICULTURE

Forest Service

Umpqua National Forest, Tiller Ranger District, Douglas County, Oregon; Decision Notice and Finding of No Significant Impact; 1981 Vegetation Management in Conifer Plantations

An environmental assessment that discusses vegetation management on the Tiller Ranger District involving control of competing vegetation on 3, 415 acres of conifer plantations has been prepared. All proposed treatment areas are located on lands administered by the Umpqua National Forest within Douglas County, Oregon. The report is available for public review at the Tiller Ranger District and the Umpqua National Forest Office in Roseburg, Oregon. No flood plains or wetlands are involved in the project.

Based on the analysis and evaluation described in the Environmental Assessment for this project. It is my decision to adopt Alternative VI, Vegetation Management, using the following methods:

39%—Chemical Methods.—Aerial application on 373 acres with Roundup and on 273 acres with Atrazine/dalapon mixture; ground application on 332 acres with Roundup on 86 acres with Atrazine/dalapon mixture and on 5 acres with the herbicide Asulox. Also included in the preferred alternative is the aerial application of 212 acres with 2,4–D herbicides and the ground application on 54 acres with 2,4–D herbicides.

13%—Mechanical Methods.—The use of a tractor with a brush cutter will occur on 28 acres and the use of a tractor with a soil ripping attachment will occcur on 15 acres depending on soil conditions. Site preparation by tractors (during logging) will occur on about 400 acres.

19%—Manual Methods.—Manual scalping with 24–36 inch scalps will occur on 416 acres, manual brushing will occur on 193 acres, and manual pulling of brush on 38 acres.

12%—Biological Methods.—Cattle grazing in existing allotments is expected to provide some beneficial release on 193 acres, sheep grazing is expected to provide some release on 130 acres, and the use of insects (such as the cinnabar moth) will control tansy ragwort on 100 acres.

17%—Thermal Methods.—Prescribed burning (broadcast) will prepare sites on 560 acres. Girdling stems with torches will occur on 10 acres.

These treatments are necessary in order to control competing vegetation so that additional moisture and nutrients or light will be available for conifer survival and growth.

The report considers the use of various methods of vegetation management as follows:

A. No treatment.
B. Manual Methods.
1. Hand Brushing.
2. Hand Scalping.
C. Mechanical Methods—Tractor or Other Heavy Equipment.
D. Chemical (Herbicides).
E. Biological (pathogens, sheep, cattle).
F. Thermal Methods.

Six alternatives were developed using various conbinations of these methods.

The site specific effects of all feasible alternatives were addressed and Alternative VI provides the best combination of methods to effectively accomplish vegetation management on the 3,415 acres with minimal environmental impacts, and is the environmentally preferable alternative.

I have determined, based on the environmental analysis, that this is not a major Federal action that would significantly affect the quality of the human environment; therefore, an environmental impact statement is not needed. This determination was made considering the following factors: (a) all chemicals are approved by EPA for the proposed use; (b) application of chemicals will comply with applicable EPA labels, State and Federal law, Forest Service policies and the draft R–6 Environmental Statement dealing with vegetative management; (c) treatment with chemical, mechanical or hand methods will have only slight and temporary effect on the ecosystems in the treatment areas; (d) physical and biological effects are limited to the areas of planned treatment; (e) there are no irreversible or irretrievable resource commitments or losses; and (f) no known threatened or endangered plants or animals have been recorded or observed within the project area.

Some public concern exists over the use of any chemical and the effects it has on water quality. The proposed project includes application measures designed to protect non-target areas and the water quality. State and Federal Water Quality Standards will be met.

Project implementation may take place immediately after the date of this decision.

This decision is subject to administrative review (appeal) pursuant to 36 CFR 211.19

Dated: February 1, 1981.

R. D. Swartzlender,

Forest Supervisor.

[FR Doc. 81-6223 Filed 2-24-81; 8:45 am]
BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 39135; Order 81-2-85]

Application of Jet America for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order 81–2–85 application of Jet America under Subpart Q for a certificate of public convenience and necessity; Docket 39135.

SUMMARY: The Board is proposing to grant a certificate of public convenience and necessity to Jet America, subject to a favorable determination of its fitness, to authorize it to provide service in the Long Beach-Chicago market. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below no later than March 17, 1981, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 39135, Docket Section, Civil

Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Thomas G. Chew, Bureau of Domestic Aviation, Civil Aeronuatics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–6067.

SUPPLEMENTARY INFORMATION: Objections should be served upon Jet America; the California Transportation Commission and the Illinois Department of Transportation; the Mayors of Long Beach, California and Chicago Illinois; and the managers of the airports in Long Beach and Chicago. The complete text of Order 81–2–85 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a post card request for Order 81–2–85 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 19, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81–6329 Filed 2–24–81; 8:45 am]

BILLING CODE 6320–1–M

[Docket 39135; Order 81–2–84]

Application of Jet America for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 81–2–84 application of Jet America under Subpart Q for a certificate of public convenience and necessity Docket 39135.

SUMMARY: The board is instituting the *Jet America Fitness Investigation,* Docket 39327, and setting it for a hearing before an Administrative Law Judge of the Board on an expedited basis, at a time and place to be determined later, to consider whether Jet America is fit, willing, and able to provide service in the Long Beach-Chicago market. The complete text of this order is available as noted below.

DATES: Persons wishing to file petitions to intervene shall file their petitions in Docket 39327 prior to the prehearing conference and serve such filings on the persons listed below. Notice of the Prehearing Conference shall be published in the **Federal Register.**

ADDRESSES: Petitions should be filed in Docket 39135, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Thomas G. Chew, Bureau of Domestic Aviation, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–6067.

SUPPLEMENTARY INFORMATION: Filings should be served upon Jet America; the California Transportation Commission and the Illinois Department of Transportation; the Mayors of Long Beach, California and Chicago, Illinois and the managers of the airports in Long Beach and Chicago. The complete text of Order 81–2–84 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. Persons outside the metropolitan area may send a post card request for Order 81–2–84 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 19, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81–6330 Filed 2–24–81; 8:45 am]

BILLING CODE 6320–01–M

[Docket 37834; Order 81–2–91]

Application of Montana Austria Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to show cause; Order 81–2–91.

SUMMARY: The Board proposes to approve the following application:

Applicant: Montana Austria Flugbetrieb Gesellschaft, m.b.H. d/b/a Montana Austria Airlines.

Application Date: March 11, 1980, supplemented June 20 and August 22, 1980 Docket 37834.

Authority Sought: Foreign air carrier permit authorizing scheduled service of persons and property between Vienna and New York and charter trips in foreign air transportation.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall NO LATER THAN March 17, 1981, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Austria in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the secretary of the Board will enter an order which will, subject to disapproval by the President, make final the board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 37834, Docket Section, Civil Aeronautics Board, Washington, D.C.

Application: "Montana", c/o Gary b. Garofalo, Boros & Garofalo, 1120 Connecticut Avenue NW., Washington, D.C. 20036.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Regis Milan, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5880.

By the Civil Aeronautics Board: February 19, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81–6328 Filed 2–24–81; 8:45 am]

BILLING CODE 6320–01–M

[Order 81–2–90; Docket 39329]

Request of Orient Express

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 81–2–90, Docket 39329.

SUMMARY: The Board proposes to deny a foreign freight forwarder registration to Orient Express Co., because the Government of Korea has not allowed U.S. citizens to obtain like authority in that country.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions as described in the order cited above, shall, NO LATER THAN March 16, 1981, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, to the Ambassador of Korea in Washington, D.C., and to the Departments of State and Transportation.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board may enter an order which would make final the Board's tentative findings and conclusions and deny a foreign freight forwarder registration to Orient Express Co.

ADDRESSES FOR OBJECTIONS:

Docket 39329, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

Orient Express Co., 88–36 St. James Avenue, Elmhurst, New York 11373.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION: Contact Dean L. Johnson (202) 673–5878, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 19, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-6327 Filed 2-24-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37392; Order 81–2–86]

Transatlantic, Transpacific and Latin American Service Mail Rates Investigation; Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of February, 1981.

By Order 78–12–159, the Board adopted a review procedure and updating formula for establishing final international service mail rates for future periods on a semi-annual basis. This order reflects all revisions adopted subsequently by the Board,[1] proposes tentative final rates and establishes revised temporary rates for the first quarter of 1981.

In addition, it also incorporates a further modification to the formula. As indicated in PS–99,[2] with the elimination of Schedule P–5(a), the carriers are no longer providing regulatory depreciation data to the Board. This makes it necessary to use the reported "book" depreciation. We have restated the 1975 base period cost data to reflect the use of book depreciation for comparative purposes and have used book depreciation in computing the proposed rates.

These rates shall serve as temporary rates for the first quarter of calendar year 1981 until the final rate order is issued. Since these rates are subject to retroactive adjustment, we waive the procedural requirements of Rule 310 with respect to the establishment of the temporary rates.

The tentative final service mail rates set forth in Appendix A reflect the application of the following cost escalation factors:

1. Fuel Cost: The cost per gallon as at February 15, 1981, the midpoint of the quarter for which the rates are to be effective, is estimated by (a) computing the average monthly increase in price over the latest four months; (b) projecting the average monthly increase for a period of three months; and (c) adding the three-month increase to the November 1980 cost per gallon (See Appendix D); and

2. Other costs: Cost escalation from April 1, 1980, to April 1, 1981, is based on a comparison of unit costs for the year ended September 30, 1979, with unit costs for the year ended September 30, 1980. A change in allocation procedures by Northwest has resulted in less costs being allocated to the Pacific entity noncapacity costs. To adjust for this anomaly, we have annualized the rate of change that occurred between the year ended March 31, 1980, and the year ended September 30, 1980.

These rates reflect an increase in the linehaul charges in the Pacific rate area of about 2.8 percent and decreases in the Atlantic and Latin American rate areas of approximately 4.0 and 0.8 percent, respectively. The cause for the decreases is due to a continuing moderation in the rate of fuel price increases. Terminal charges increased by about 9.8, 8.9, and 4.7 percent in the Atlantic, Pacific, and Latin American rate areas, respectively.

The Board tentatively finds and concludes that:

(1) The fair and reasonable final rates of compensation to be paid in their entirely by the Postmaster General pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, to the carriers for the transportation by aircraft of space-available mail, military ordinary mail and all other mail over their respective routes in the Atlantic, Pacific, and Latin American rate areas,[3] the facilities used and useful therefor, and the services connected therewith, for the period from January 1 through March 31, 1981, are those set forth in the attached Appendix A.

(2) The fair and reasonable temporary rates of compensation for the transportation of mail by aircraft in international services for the period April 1, 1981, until further Board order shall be the final rates established for the period January 1 through March 31, 1981.

(3) The terms and conditions applicable to the transportation of each class of mail at the rates established here are those set forth in Order 79–7–17.

Therefore, in accordance with the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302.

1. We direct all interested persons to show cause why the Board should not adopt the foregoing tentative findings and conclusions, and fix, determine and publish the final rates specified above to be effective January 1 through March 31, 1981;

2. We direct all interested persons having objections to the rates or to the tentative findings and conclusions proposed here to file with the Board a notice of objection within ten (10) days after the date of service of this order, and, if notice is filed, to file a written answer and any supporting documents within 30 days after service of this order;

3. If no notice is filed, or, if after notice, no answer is filed within the designated time, or if an answer timely filed raises no material issue of fact, we will deem all further procedural steps waived and we may enter an order incorporating the tentative findings and conclusions set forth here and fixing the final rates set forth in the attached Appendix A;

4.The fair and reasonable temporary rates of compensation for the transportation of mail by aircarft in international services for the period January 1, 1981, until further Board order are the rates set forth in the attached Appendix A; and

5. We shall serve this order upon all parties in this proceeding.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board:

Phyllis T. Kaylor,[4]

Secretary.

Appendix A—International Service Mail Rates

[January 1, 1981 thru March 31, 1981]

	CY 1975 rates[1] (cents)	Escalation factors[2] percent	Final rate 1/ 1/81 thru 3/ 31/81 cents
Atlantic Rate Area			
Linehaul charge per billing ton-mile:			
Priority and military ordinary mail	20.22	73.12	35.00
Space available mail	12.96		22.44

[1] See Orders 79–7–17, 79–7–96, 80–1–25, 80–5–125, and 80–7–10.

[2] Adopted December 11, 1980, 45 FR 82624, December 16, 1980.

[3] The Atlantic, Pacific, and Latin American rate areas are delineated in Attachments 1, 2, and 3, respectively, to Order 79–7–17.

[4] All Members concurred.

Appendix A—International Service Mail Rates—Continued

[January 1, 1981 thru March 31, 1981]

	CY 1975 rates[1] (cents)	Escalation factors [2] percent	Final rate 1/ 1/81 thru 3/ 31/81 cents
Terminal charge per pound originated:			
Priority and military ordinary mail	11.39	95.68	22.29
Space available mail	10.27		20.10
Pacific Rate Area			
Linehaul charge per billing ton-mile:			
Priority and military ordinary mail	21.88	80.40	39.47
Space available mail	13.49		24.34
Terminal charge per pound originated:			
Priority and military ordinary mail	13.39	29.10	17.29
Space avialable mail	11.59		14.96
Latin American Rate Area			
Linehaul charge per billing ton-mile:			
Priority and military ordinary mail	21.35	82.78	39.02
Space available mail	16.44		30.05.
Terminal charge per pound originated:			
Priority and military ordinary mail	9.83	60.08	15.74
Space available mail	9.10		14.57

[1] Order 80-1-25.
[2] Appendices B-1, B-2 and B-3.

[FR Doc. 81-6331 filed 2-24-81; 8:45 am]
BILLING CODE 6320-01-M

[Docket 39328; Order 81-2-89]

United States-France Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 81-2-89.

SUMMARY: The Board proposes to issue certificates to applicants proposing scheduled service between points in the United States and points in France. It has established the *United States-France Show Cause Proceeding* for this purpose, Docket 39328. The current applicants for this authority are: Air Florida, Braniff Airways, Capitol International Airways, The Flying Tiger Line, Lone Star Airways, Transamerica Airlines, and Trans World Airlines. (Note: Since the Board could not determine the fitness of Lone Star from officially noticeable data, it deferred action on its applications pending a fitness determination in other proceedings.)

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN March 20, 1981, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 39328, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicants, the Department of Transportation and the Department of State. Copies of the objections should also be sent to the Ambassador of France.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificates.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Glenn M. Datnoff (202) 673-5035, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 19, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-6333 Filed 2-24-81; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38302; Order 81-2-93]

United States-Ireland Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 81-2-93.

SUMMARY: The board proposes to amend the certificates of Pan American World Airways and Trans World Airlines to make their authority to serve Ireland permissive and to suspend until January 26, 1983 their authority at Dublin. Docket 38302.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be modified as described in the order cited above, shall file a statement of such objections NO LATER THAN March 17, 1981, with the Civil Aeronautics Board (20 copies) and mail copies to Pan American, Trans World Airlines, the Department of Transportation, the Department of State, and the Ambassador of Ireland in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificates.

ADDRESSES FOR OBJECTIONS:

Docket 38302, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

Verner, Liipfert, Bernhard and McPherson, Counsel for Pan American, Suite 1100, 1661 L Street NW., Washington, D.C. 20036

Ulrich V. Hoffmann, Vice President and General Counsel, Trans World Airlines, 605 Third Avenue, New York, NY 10158.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send postcard request.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia L. DePuy, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5878.

By the Civil Aeronautics Board: February 19, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-6325 Filed 2-24-81; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Portable Electric Typewriters From Japan; Correction to Early Determination of Antidumping Duties

Cross Reference: For a document correcting an early determination of antidumping duties on portable electric typewriters from Japan, see FR Doc. 81-6227, appearing in the Rules and Regulations Section of this issue.

BILLING CODE 3510-25-M

University of Texas Health Science Center at Houston; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the

regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 78–00357. Applicant: The University of Texas Health Science Center at Houston, Medical School, P.O. Box 20708, Houston, Texas 77025. Article: Isotope Ratio Mass Spectrometer, Model 602C and Accessories. Manufacturer: VG Micromass Ltd., United Kingdom. Intended use of Article: See Notice on page 40263 in the **Federal Register** of September 11, 1978.

Comments: No comments have been received with respect to this application. A letter dated September 18, 1978 was received from Nuclide Corporation ("Nuclide") after expiration of the comment period. This letter is being treated as an offer to provide additional information in accordance with Subsection 301.10(a) of the regulations.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (May 24, 1976).

Reasons: This application is a resubmission of Docket Numbers 77–00311 and 76–00546, which were denied without prejudice to resubmission on February 27, 1978 and April 14, 1977, respectively, for informational deficiencies. The applicant alleges in response to question 8 that certain features of the foreign article are pertinent (within the meaning of Subsection 301.2(n) of the regulations) to its intended uses that are not available in any standard domestic instrument including those manufactured by Nuclide. The applicant further states that it is unreasonable to expect Nuclide to custom-make an instrument providing these features and to deliver that instrument in a reasonable time. To support this statement the applicant alleged that Nuclide failed to deliver a non-standard instrument to a colleague of the applicant as promised. However, the National Bureau of Standards (NBS) advises in its memoranda dated November 15, 1978, March 15, 1979 and November 10, 1980 that Nuclide could provide standard instruments with standard options that would be scientifically equivalent to the foreign article for the applicant's intended use at the time of order. The Department concurs. The Department also notes that the colleague cited by the applicant ordered two instruments. One might have involved a relatively new feature (triple collector) and late delivery (delay of 15 months), but there was no significant delay in receiving the one that is more comparable to the foreign article in this case (delivery in 7 months as compared with 6). A discussion of the key issues in this application including each of the features alleged by the applicant to be pertinent follows:

Applicant's Contact With Nuclide

Question 8.c. of the application form provides guidelines for justifying duty-free entry. The applicant is asked to identify the particular domestic instrument(s) compared with the foreign article and to list the features of that article that are both pertinent to the intended program and unmatched in the domestic instrument(s). An important facet in selection of the instrument(s) to be compared with the foreign article is the information that the applicant obtains on the instrumentation available from the domestic manufacturer, which can vary greatly according to the manner in which it is solicited. Question 9 of the application form as well as Subsections 301.7 and 301.9(c)(7) of the regulations are intended, in part, to ascertain whether the domestic manufacturer was made sufficiently aware of the applicant's need to furnish the required information. Both Question 9 and Subsection 301.7 require the enclosure of documentation supporting the applicant's statements on the nature of the contact with the domestic manufacturer.

The record contains no evidence that Nuclide, a domestic firm long established as a manufacturer of comparable ratio mass spectrometers (RMS), was aware of the complete specifications or key issues alleged. The applicant contacted various manufacturers including Nuclide and claimed to have obtained current catalogues of stock items and options. It is not clear that any manufacturer was made aware of the applicant's need for special features such as the siamese configuration. Then, according to the reply to Question 8, the applicant compared various products "using both manufacturer's standard catalogues and literature, with neither given special opportunities." Apparently, the foreign manufacturer (and no other) provided literature on a siamese instrument, and the applicant concluded that this foreign firm "was the only source." Nuclide was not sent a formal RFQ. However, as indicated in the discussion of each specification cited as pertinent below, Nuclide could have provided standard instrumentation to match the capabilities conferred by the siamese feature as well as all other specifications at issue in this case.

In this connection the following advice from NBS is noteworthy:

> Had the applicant given domestic manufacturers the opportunity to respond to a quote for such an instrument [i.e., the foreign article] he would have found that the foreign manufacturer is not the only source for such instruments. The method by which the applicant concluded that VG [the foreign manufacturer] was the only source is a little naive, unless requests for specific features were not included and therefore the domestic manufacturers who responded to requests for catalogues were unaware of the specific needs of the applicant. This would drastically narrow the choice of manufacturers to one.

In view of the discussion above the Department concludes that Nuclide was not adequately informed of the applicant's needs.

Siamese Configuration

The applicant states that the foreign article has a siamese configuration providing changeover from H_2 to CO_2 (N_2), or vice versa i.e., within 15 minutes while still meeting specifications.

In the so-called siamese configuration provided by the foreign manufacturer, essentially two mass spectrometers are used but with certain components in common. There are two separate analyzer tubes each with a dual collector. Each analyzer tube requires a separate magnet but there is room on the carriage for only one magnet at any given time. Permanent magnets are usually furnished. The two systems share a single vacuum system and have common electronic components. (Such sharing is a means of reducing cost and two separate instruments is a viable alternative.) Thus the foreign article, according to specifications submitted with the initial submission, provides both analyzer (A) for CO_2 and N_2 and analyzer (B) for H/D work on a common vacuum system with changeover between analyzers taking only a few minutes. (The applicant's purchase order, US6–9822, however, states that changeover between Group A isotopes, C.O.N.S., to hydrogen analysis shall take less than 5 minutes and operation must begin within 30 minutes.) This changeover (of analyzers) also involves changing the chopper head amplifier connection, operating two valves in the sample line and placing the relevant magnet into the prealigned carriage.

Had Nuclide been afforded an opportunity to bid, it could have provided two separate instruments, a two magnet system analogous to the foreign article (PUBS 1526–1–6375). It

could also have met the siamese configuration requirement with several scientifically equivalent standard systems differing slightly in detail. For example, the Nuclide 6–60 split or branched tube analyzer (type HD), which was offered by Nuclide at least as early as 1970 (PL RMS (6–70)), permits simultaneous collection of ions at mass 2 in one arm and mass 3 plus the heavier species (N_2, CO_2 etc.) in the other arm. In addition, since 1965 (RMS–2 (3–65)) Nuclide offered a "wide range" analyzer tube (type 6–60–WR) for its 6–60. The WR tube permits simultaneous collection of species differing in mass by a factor of six to one (e.g., CO_2, N_2, HD, HH, etc.). In both split tube and WR systems, electronics, vacuum and magnet are shared. In both, an electromagnet is provided as standard but a permanent magnet is available as a lower cost option. In both, the required RMS analyses can be accomplished without changeover time or breaking of the vacuum. NBS advises that Nuclide's 6–60 split tube matches the foreign article with respect to the capabilities provided by the article's siamese configuration. The Department concurs and finds the 6–60 WR similarly equivalent. The Department also notes that a mere design difference between foreign and domestic instruments of equivalent capability is not a pertinent feature within the meaning of Subsection 301.2(n).

High Precision Guarantee on Small Samples

Specification of the article stipulate a precision of 0.01% on carbon dioxide (CO_2) samples as small at 0.01 atmosphere cubic centimeters (atm. $cm.^3$). However the purchase order (PO) stipulates a precision of better than 0.001% on CO_2 samples as small as 0.01 (atm. $cm.^3$). The PO specification is undoubtedly a typographical error as it calls for a precision better than that specified for larger samples (0.0025%) for which better precision would be expected. Further, the PO specifies a "standard" instrument and the applicant makes a point of wanting a "standard catalog item" (the "standard" guarantee is 0.01%). In any case there is evidence that Nuclide could match the better specification and, as pointed out below, the applicant believes Nuclide instruments are working at the required level.

The applicant states, "A comparison of the guaranteed performance specifications of the [article] with either the Nuclide 6–60 RMS or the 3–60 RMS indicates that the [article] has not only the higher precision guarantee, but also that the precision on the smallest samples is also better. While it is undoubtedly true that Nuclide instruments are performing to equivalent specifications, the manufacturer is apparently unwilling to guarantee such performance in our laboratory." Nuclide's specified precision is not given. Further, no evidence was provided to reinforce the statement that Nuclide would not guarantee its specifications in the laboratory and there is ample evidence that Nuclide would provide such guarantees. Literature on Nuclide's 3–60–RMS (PUBS 1151 dated July, 1971) and its 6–60 RMS (PUBS 1002A dated January, 1972 and RMS–2 dated March, 1965) offers performance testing at the plant site and/or the buyer's site, as specified by the customer at a price (cost is not pertinent within the meaning of Subsection 301.2(n)). More importantly, Nuclide successfully met a 1974 RFQ based on quoted specifications for the foreign article including demonstration of small sample analysis capability (0.025 atm. $cm.^3$ at an internal precision of 0.01%) in the customer's laboratory.

Regardless of sample size, maximum precision in an RMS mass spectrometer requires equalizing sample reference gas pressure plus viscous flow through the capillary tubes entering the mass spectrometer. Manual or automatic adjustable volume devices such as mercury filled pistons or metal bellows which can be expanded or contracted with a small stepping motor are scientifically equivalent means of adjusting pressure to meet these requirements. NBS advises that (1) Nuclide has offered to provide any or all of these systems as well as other handware needed for maximum precision and (2) in any event, any manufacturer could be expected to provide these simple devices with no delay. To obtain maximum precision on small samples, volume must be small enough to insure adequate pressure to prevent molecular flow (and the attendant mass fractionation which will vary with flow rate).

The foreign article's precision (0.0025% for CO_2) is specified as 2 x the standard deviation of a set of 10 measurements on the same sample. This is usually referred to by experts as the internal precision of a single measurement and is usually considered the least useful statistical statement, although it does define the *ultimate precision of the system.*

NBS advises that Nuclide has shown a precision of 0.001% for CO_2 with measurement of six different aliquots of the same sample (PUBS 1415–0174). This is generally considered to be a more stringent test and should be considered precision equal to or better than that of the foreign article for large sample sizes.

An even more stringent test (almost a measure of "accuracy") is the interlaboratory reproducibility of a large number of samples differing significantly in composition. Such a test was conducted prior to 1970 with Nuclide 6–60 ratio mass spectrometers in two different laboratories. The mean deviation between the two (22 sample) sets of data was 0.002% and the absolute deviation was 0.006%. One of the instruments used in this test was able to achieve similar precision on samples as small as 0.01 atm. $cm.^3$ (PUBS 1649–0976). Nuclide's apparatus for analyzing small samples at maximum precision has undergone gradual change for the better. Had the applicant sent this firm a formal RFQ it is likely that an instrument with a mini-reservoir as small as 0.1 ml. (PUBS 1661–1076) would have been offered. This compares favorably with the 0.5 ml. mini-reservoir of the foreign article. NBS advises that Nuclide matches the foreign article with respect to precision for small sample analysis. The Department concurs.

1. *Applicant's allegations:* a. *H^+_3 contribution:* "The measurement of deuterium enrichment requires the measurement of the H_2/HD ration (m/e 2/3). There is an ion molecule reaction in the ion source of the mass spectrometer which produces H^+_3 which is indistinguishable from HD and, in the case of small enrichments, can constitute an unacceptable error. The ion source of the MM–602D Siamese is constructed to minimize the formation of H^+_3 and the extent of the error produced by changes in *pressure* is less than 0.1%. The *best* value guaranteed by Nuclide is over 3 times larger."

b. H^+_3 Correction: "Since the H^+_3 originates from an ion molecule reaction, the concentration of H^+_3 varies as the square of the pressure, not linearly. Thus, during a measurement, the pressure is continuously decreasing and the intensity of m/e 3 due to both HD^+ and H^+_3 is varying in a non-linear fashion. Only the VG MM 602D offers a system for correcting all results for this non-linear variation. This correction provides immediately useable data requiring no other calibration. With the Nuclide instrument, (i) the H^+_3 contribution is large and (ii) there is no automatic correction. Measuring H_2/HD ratios on the Nuclide instrument is difficult, time-consuming and imprecise as compared to the MM 602D."

2. *Specifications of the foreign article:* "H^+_3 * * * special high sensitivity ion source with which the H^+_3 contribution is in the region of 12 ppm for the

standard operating m/e 2 ion current of 3.10^{-9} A. This 12 ppm (equivalent to 4% at natural level) is then electronically compensated by the H^+_3 correction control so that changes in sample pressure produce an error factor of less than 1.001, that is an error of less than 0.1‰ (sic) on enrichments up to 100‰. The H^+_3 contribution is sufficiently constant for the H^+_3 correction control only to require setting once per day."

3. *Discussion:* It is possible to make high precision measurements even in the presence of a high H^+_3 contribution. Under normal conditions analyses are always made as ratios of a sample to a standard and under carefully controlled conditions of constant and equal ions currents, pressures, etc. Thus, any H^+_3 formed would be the same in the sample as in the standard and would automatically counter each other. This is, in fact, true but only when the sample is of the same purity as the standard. This is something which should always be true as a matter of good practice but unfortunately is not always done.

The amount of H^+_3 formed in the mass spectrometer ion source is important in that a correction must be made for this. As with any correction, the applicant is correct in stating that it is desirable that it be as small as possible since the uncertainty of the correction may be as large as the measurement error. For the most precise work the amount of H^+_3 formed must be measured for each sample. NBS advises that (1) the method of measurement is as used by Nuclide, and (2) in practice the amount of H^+_3 usually stays constant enough for any given machine that it is measured once a day or once a week and then through hardware or software adjustments the H^+_3 is subtracted. The Department concurs.

The specifications of the foreign article state that the H^+_3 contribution is "in the region of 12 ppm." This is an undefined range. The specifications also state, "this 12 ppm (equivalent to 4 percent at natural level) * * *." There is no specific "natural level" unless the specific sample is identified since H/D ratio changes greatly in nature. If there is a natural sample it must be a water sample since the earth's waters show relatively little natural variation in H/D ratio (as opposed to gas samples where electrolytic hydrogen may vary from oil well hydrogen by as much as 40 percent). Standard Mean Ocean Water (SMOW), NBS–1 (Potomac River Water Steam Distillate) and NBS–1A (Yellowstone Snow Water) typify water samples and the ranges to be expected. NBS advises that the analysis perform by Nuclide in 1967 (PUBS 1345–0573) demonstrates that the Nuclide contribution may be as low as 3–4 percent under normal running conditions for "natural" samples. The Department concurs and finds that Nuclide instruments match the foreign article with respect to H^+_3.

Higher Guaranteed Vacuum Under Normal Working Conditions

Specifications for the foreign article state that its vacuum system provides a typical residual vacuum for the analyzer of 10^{-9} tor, read on the Bayard-Alpert ion gauge.

Obtaining a high vacuum in a mass spectrometer is a function of the vacuum pumps, materials and type of construction, and the following of "good practice". This includes using high conduction paths, etc. Nuclide and other manufacturers (including the manufacturer of the foreign article) use essentially the same materials of construction and use design criteria consistent with good high vacuum practice. All of these manufacturers purchase pumps from other manufacturers including in some cases from the same manufacturer. Nuclide in particular has offered for many years a wide variety of pumping systems as options, including turbopumps, mercury and oil diffusion pumps and ion pumps. At least as early as 1966, Nuclide catalogs indicated that it could provide ion pumps (capable of reaching 10^{-9} tor) and pressure read on Bayard-Alpert gauges for its Model 6–60 series (Catalog received April, 1966). Nuclide has also offered in the past to guarantee that pressure of 10^{-9} could be obtained. There is no reason to believe that this firm would not and could not have done so in this case. NBS advises that Nuclide has demonstrated at least 10^{-9} tor. The Department concurs.

Delivery of a Comparable Domestic Instrument

The applicant, in its initial submission, Docket Number 76–00546, indicated that excessive delivery time was not a consideration. In its second submission, Docket Number 77–00311, the applicant submitted a purchase order (No. US6–9822) which indicated that the foreign article was ordered May 24, 1976 and was needed by July 1, 1976 for teaching and research purposes. The applicant also stated in response to question 8.d. that "a delivery time was not obtained from domestic manufacturer" because (1) the instrument sought would require major design changes in the analyzer which ruled out construction with added options and accessories, (2) manufacturers other than the manufacturer of the foreign article would have to "special order" construct an instrument comparable to the foreign article and could not possibly deliver on time; (3) work described in response to question 7 was already underway and samples were accumulating, particulary patient samples from the Department of Surgery which were scheduled to begin arriving September 1 at the start of a program in nutrition; and (4) the months of July and August were needed to learn to run the instrument and train technicians on associated wet-chemistry methods.

Both NBS and the Department of Health and Human Services (HHS) reviewed Docket Number 77–00311 and, among other things, provided advice on the question of delivery. NBS noted that the foreign article entered the U.S. in October, indicating that the foreign manufacturer could not deliver on time. NBS also advised that the applicant's judgment relative to domestic delivery was arbitrary and unsubstantiated but, if the applicant had elected to afford domestic manufacturers an opportunity to bid, its claim could have been considerd. HHS noted, "* * * In spite of the urgency of the program, a May order for July delivery of a machine of this magnitude would indicate planning error. Comparative guaranteed delivery dates for foreign and domestic instruments are not established." The advice of NBS and HHS was transmitted to the applicant as part of the Department's denial without prejudice to resubmission (DWOP) of the second submission. In that DWOP the Department also informed the applicant that, in addition to clearly establishing that delays in receiving a domestic instrument would seriously impair the accomplishment of the purposes described in response to question 7, it was necessary to document the difference in quoted delivery times for the foreign article and a comparable domestic instrument by submitting copies of quotas and other relevant correspondence. The Department also noted that the issue of excessive delivery time was raised by the applicant after first stating, in the initial submission, that excessive delivery time was not a consideration.

In this tired submission (Docket Number 78–00357), the applicant asserted that (1) excessive delivery time of a domestic instrument was a

consideration in choosing a stock siamese instrument (the foreign article) rather than a special order Nuclide siamese instrument, (2) no manufacturer, however competent, could custom-make an instrument of that complexity and provide 2–3 month delivery dates and (3) this is very well substantiated by precedent from the experience of others with Nuclide and special order items, and similarly by other manufacturers. As to the late delivery of the foreign article, the applicant stated that the foreign manufacturer did not keep its promise that "* * * In retrospect a penalty clause should have been written in [the constract] but was not."

The foreign article was ordered May 24, 1976, and was received on Octoberr 11, 1976 "for storage." Its specified delivery date was July 1, 1976. Thus delivery was 71 days late. Nuclide (which could have met all of the applicant's needs with standard, not special order instrumentation) was not afforded an opportunity to bid on the applicant's requirements. Subsection 301.11(c) of the regulations requires duty-free entry via "excessive delivery time" to be based, in part, on the documented difference in quoted delivery times of the foreign and domestic manufacturers so that failure to obtain a quote from either manufacturer eliminates "excessive delivery time" as a duty-free entry consideration. Further, NBS advises that although the experiences of a colleague apparently has a bearing on the applicant's decision, it is hardly sufficient basis for a conclusion that domestic manufacurers, in particular Nuclide, could not provide an instrument capable of satisfying or exceeding the specifications within a reasonable length of time, since the applicant did not afford the domestic manufacturers the opportunity to formally respond to a quote for an instrument to its specifications. NBS also notes that there are adequate means (such as performance bonds, penalty clauses, etc.) to insure prompt delivery or performance guarantees. The Department concurs and concludes that duty-free entry is not justified on the basis of "excessive delivery time."

Based on NBS advice and our own review of the record, as set forth above, we find that a Nuclide instrument, such as Nuclide's Model 6–60 RMS with a branched tube analyzer, was of equivalent scientific value to the foreign article for such purposes as the article in intended to be used at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81–6332 Filed 2–24–81; 8:45 am]

BILLING CODE 3510–25

Maritime Administration

Relocation of Great Lakes Region Office, Maritime Administration

AGENCY: Maritime Administration.

ACTION: Notice of Relocation of Great Lakes Region Office.

SUMMARY: Notice is hereby given that the Great Lakes Region Office of the Maritime Administration will move to 1301 Superior Avenue, Room 260, Cleveland, Ohio 44114. All telephone numbers will remain the same. The move is expected to take approximately three days to complete. Operation will be disrupted during the period of Febreuar 23–26, 1981

EFFECTIVE DATE. The relocation will be effective February 23, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Richard A. Weaver, Office of Management and Organization, Maritime Administration, Room 3884, Department of Commerce, Washington, D.C. 20230, Tel: (202) 377–3405.

Date: February 19, 1981.

So ordered by the Assistant Secretary for Maritime Affairs.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81–6228 Filed 2–24–81; 8:45 am]

BILLING CODE 3510–15–M

National Bureau of Standards

Proposed Revision to Federal Information Processing Standard 71, Advanced Data Communication Control Procedures

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards.

In a notice published in the **Federal Register** on May 14, 1980 (45 FR 31769), the Secretary announced his approval of the standard for Advanced Data Communications Control Procedures as a Federal Information Processing Standard (FIPS) and that the standard would be published as FIPS Publication (PUB) 71. The provisions of FIPS PUB 71 took effect on June 13, 1980. Background information about that standard and its purpose are set out in the mentioned May 14, 1980, notice.

The purpose of this notice is to announce that revisions are proposed to FIPS PUB 71. The proposed revisions, which are set out at the conclusion of this notice, will make FIPS PUB 71 more clearly consistent with the revised Federal Telecommunication Standard 1003. The latter standard is being processed by the General Services Administration and the National Communications System.

Prior to submission of these proposed revisions to the Secretary for review and approval, it is essential to assure that proper consideration is given to the views of the public, of State and local governments, and of manufacturers. An additional purpose of this notice therefore is to solicit such views.

Interested parties may submit comments in writing to the Standards Administration Office, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (ATTN: Proposed Revision of FIPS PUB 71). To be considered, comments on these proposed revisions must be received on or before (please insert date which is 90 days from the date of publication of this notice in the **Federal Register**).

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230.

Persons desiring further information about this standard or the proposed revisions as set out herein may contact Mr. Eric L. Scace, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (301) 921–3723.

Dated February 19, 1981.

Ernest Ambler,

Director.

Proposed Revisions to FIPS PUB 71

It is proposed that the specifications section of FIPS PUB 71, Advanced Data Communication Control Procedures, be revised to add the following two new items:

* * * * *

(4) All systems shall implement the 16-bit frame check sequence (FCS) specified in American National Standard X3.66–1979, referenced above.

A 32-bit FCS may also be provided for use when it has been determined that a higher degree of error protection is necessary on a link. For a discussion of the relative merits of the 16-bit and 32-bit FCS, see FIPS PUB 78, Guideline for Implementing Advanced Data Communication Control Procedures, Section 7.8.

The equations for 32-bit FCS generation are:

$$\frac{X^{32}G(X)^k + X^kL(X)}{P(X)} = Q(X) + \frac{R(X)}{P(X)}$$

FCS = L(X) + R(X) = R(X)

The arithmetic is modulo 2.

$L(X) = X^{31}+X^{30}+X^{29}+X^{28}+X^{27}+X^{26}+X^{25}+X^{24}+X^{23}+X^{22}+X^{21}+X^{20}+X^{19}+X^{18}+X^{17}+X^{16}+X^{15}+X^{14}+X^{13}+X^{12}+X^{11}+X^{10}+X^9+X^8+X^7+X^6+X^5+X^4+X^3+X^2+X^1+1.$

R(X) = The remainder which is of degree less than 32.

k = The number of bits represented by G(X).

$P(X) = X^{32}+X^{26}+X^{23}+X^{22}+X^{16}+X^{12}+X^{11}+X^{10}+X^8+X^7+X^5+X^4+X^2+X^1+1$

G(X) = The message polynomial, which includes the contents of the address, control, and information fields, excluding the zero bits inserted for transparency (see American National Standard X3.66–1979, Section 3.7).

The generation of the remainder R(X) differs from that used in conventional (non-ADCCP) check sequence generation by the presence of the X^k L(X) term in the generation equation. When the 32-bit FCS generation is by the usual shift register technique, the X^k L(X) term is added in either of two ways:

a. Preset the shift register to all ones rather than to all zeros as in conventional (non-ADCCP) generation procedures. Otherwise, shift the data G(X) through the register as in conventional procedures, or,

b. Invert the first 32 bits of G(X) before shifting into the register and shift the remaining part of G(X) through the register uninverted. This requires that G(X) contain at least 32 bits.

Whether 1 or 2 is used, the shift register contents, after shifting through G(X), are R(X). These contents are invented bit-by-bit and transmitted as the FCS sequence.

The transmitted sequence is always (in algebraic notation): $M(X) = X^{32}G(X) + FCS$.

The received sequence will be denoted M*(X) and may differ from the transmitted sequence M(X) if transmission errors are introduced. The checking process always involves dividing the received sequence by P(X) and testing the remainder. Direct division, however, does not yield a unique remainder and it is expected that in most cases the received sequence will be modified for checking purposes by the addition of terms which will cause the division to yield such a unique remainder when M*(X) = M(X), i.e., when the frame is error free.

Two classes of checking equations are given below:

$$\frac{X^{\gamma}[M^*(X) + X^kL(X)]}{P(X)} = Q(X) + \frac{R(X)}{P(X)} \qquad \text{(Equation 1)}$$

In this case, the unique remainder is the remainder of the division

$$\frac{X^{\gamma}\ L(X)}{P(X)}$$

When $\gamma = 0$ the remainder is L(X) (32 ones).

When $\gamma = 32$ the remainder is $X^{31}+X^{30}+X^{26}+X^{25}+X^{24}+X^{18}+X^{15}+X^{14}+X^{12}+X^{11}+X^{10}+X^8+X^6+X^5+X^4+X^3+X^1+1$.

$$\frac{X^{\gamma}[M^*(X)^k + (X+1)\,L(X)]}{P(X)} = Q(X) + \frac{R(X)}{P(X)} \qquad \text{(Equation 2)}$$

In this case, the unique remainder is always zero regardless of the value of γ.

Shift register implementation of above equations normally use $\gamma = 32$ (pre-multiplication). When this is the case, the added term $X^kL(X)$ in Equations 1 and 2 is added by either inverting the first 32 received bits of M*(X) before shifting them through the checking register or by presetting the register to all ones and shifting all of M*(X) through normally. Thus, the receiver action on the leading portion of a frame is the same with either Equation 1 or 2.

The +1 of the term (X^k+1) L(X) of Equation 2 is added by inverting the 32-bit FCS. This implies a 32-bit storage delay by the 32-bit FCS function at the receiver since the location of the 32-bit FCS is not known until the closing flag is received.

(5) To maximize interoperability among major Federal data communication networks, while still allowing flexibility to tailor a network for efficient day-to-day use, the following features are required:

a. The W bit in the frame reject (FRMR) information field shall be set to indicate the cause of the frame rejection condition. (See American National Standard X3.66–1979, Section 7.5.3.1.)

b. Upon receiving a FRMR with the W bit set to one, a primary/combined station shall issue an appropriate mode setting command (i.e., SNRM, SARM, SABM, SNRME, SARME, or SABME) and shall not subsequently, during the same connection with the same secondary/combined station, transmit a frame containing the command or response that caused the frame rejection condition. (See American National Standard X3.66–1979, Section 7.4.1.)

It is also proposed that the cross-index section of FIPS PUB 71 be revised to add the following new items:

(c) FIPS PUB 78, Guideline for Implementing Advanced Data Communication Control Procedures.

(d) International Standard 3309: Data Communications—High-level Data Link Control Procedures—Frame Structure.

(e) International Standard 4335: Data Communications—High-level Data Link Control Procedures—Elements of Procedures.

(f) Addendum 1 to International Standard 4335: Data Communications—High-level Data Link Control Procedures—Elements of Procedures.

(g) Addendum 2 to International Standard 4335: Data Communications—High-level Data Link Control Procedures—Elements of Procedures.

(h) International Standard 6159: Data

Communications—High-level Data Link Control Procedures—Unbalanced Classes of Procedure.

(i) International Standard 6256: Data Communications—High-level Data Link Control Procedures—Balanced Class of Procedure.

(j) CCITT Recommendation X.25: Interface Between Data Terminal Equipment (Date) and Data Circuit-Terminating Equipment (DCE) for Terminals Operating in the Packet Mode on Public Data Networks.

(k) CCITT Recommendation X.75: Terminal and Transit Call Procedures and Data Transfer Systems on International Circuits Between Packet-Switched Data Networks.

[FR Doc. 81-6231 Filed 2-24-81; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Receipt of Application for Modification of General Permits

Notice is hereby given that an application has been received from the Embassy of the People's Republic of Poland requesting a modification to the following three general permits issued on January 15, 1981, to allow the taking of marine mammals incidental to commercial fishing operations:

ODRA, Swinoujscie, Poland
GRYF, Swinoujscie, Poland
DALMOR, Gdynia, Poland

The applicant is hereby requesting that these general permits, which are currently valid in the North Pacific Ocean and Bering Sea be modified to cover any incidental take which may occur in the North Atlantic Ocean.

The application is available for review in the Office of the Assistant Administrator for fisherires, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Interested parties may submit written views on this application within 30 days of the date of this notice ot the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: February 19, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-6340 Filed 2-24-81; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Defense Advanced Research Projects Agency (DARPA)

The Privacy Act of 1974; Notice of Systems of Records: Amendments

AGENCY: Defense Advanced Research Projects Agency (DARPA).

ACTION: Notification of amendments to systems of records notices.

SUMMARY: The Defense Advanced Research Project Agency (DARPA) proposes to amend two systems of records subject to the Privacy Act of 1974. The specific amendments to the system notices are set forth below under "Amendments". A complete amended system notice for each system is also set forth below.

DATES: These systems shall be amended as proposed without further notice on March 27, 1981, unless comments are received which would result in a contrary determination.

ADDRESSES: Privacy Act Officer, Advanced Research Projects Agency, 1400 Wilson Boulevard, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, telephone: (202) 695-0970.

SUPPLEMENTARY INFORMATION: The Advanced Research Projects Agency systems of records notices as prescribed by the Privacy Act were published in the **Federal Register** at:

FR Doc. 81-897 (46 FR 6532) January 21, 1981. These proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

February 19, 1981.

Amendments

E DARPA 001

System name:

Travel File (46 FR 6532, January 21, 1981).

Changes:

Categories of individuals covered by the system:

Delete the first sentence, and insert: "Current and former DARPA employees, civilian and military."

Categories of records in the system:

Delete the entry, and insert: "Traveler's last name, first name, middle initial, office, division, travel dates, days, ticket cost, other cost, travel order number, and status."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Insert the following entry under the above heading: "Internal management administrative, and budgetary needs. Provides daily, weekly and monthly status reports to top management concerning status of travel funds."

Internal users, uses, and purposes:

Delete the entry and insert: "Director and Deputy Directors, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Administrative Officers, DARPA."

Retrievability:

Delete "Categories of records in the system:", and insert: "Record Category".

Retention and disposal:

Delete "Automatic Data Processing (ADP)" in the last line, and insert: "ADP".

Notification procedure:

Delete the entry, and insert: "Information may be obtained from Administrative Officer, DARPA, Room 607, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209, Telephone (202) 694-3032."

E DARPA 004

System name:

DARPA Personnel (46 FR 6532, January 21, 1981).

Changes:

System location:

Delete the first word, and insert: "Administrative Services" before the word "Office,".

Categories of individuals covered by the system:

Delete the entry, and insert: "Current and former DARPA employees, civilian and military, and consultants."

Categories of records in the system:

Delete the entry, and insert: "Personnel Database File: title, last name, first name, middle initial; date of birth, social security number, service computation; office, division, office phone number, room number; type of appointment, job title, position description number, job series number, grade type, grade, step, salary; due date for reassignment; date of last within grade increase, due date for next within grade increase, date promoted, type of

award and date granted, previous award and date granted, date of last outstanding performance rating; level of security clearance; branch of military service, rank, date of rank; home address, home telephone number, spouse's first name; date entered on duty, date of departure; remarks, entered on duty remarks, and departure remarks. Training Database File: last name, first name, middle initial, office, grade, title of course, training site location, cost, training period dates, sponsor, and status. Consultant Database File: last name, first name, middle initial, office, number of days allowed to be worked, salary type, salary, appointment date, expiration date of appointment, departure date, and remarks."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Insert the following under the above heading:

"Information in different combinations is used for monthly manpower counts, staffing balance for civilian vs. military, professional vs. clerical; grade and salary count. Individual organizational configuration only is available to appropriate Office Directors for their managerial needs."

Internal users, uses, and purposes:

Delete the entry, and insert:

"Agency Director and Deputies, Office Director and Deputies, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Administrative Officers, DARPA."

Retrievability:

Delete "Categories of records in the system", and insert: "Record Category."

Retention and disposal:

Delete the words "Automatic Data Processing (ADP)", and insert: "ADP".

Notification procedure:

Delete the entry, and insert:

"Information may be obtained from Manpower Officer, DARPA, Room 605, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209, Telephone (202) 694–3077."

E DARPA 001

SYSTEM NAME:

Travel file.

SYSTEM LOCATION:

Administraive Services Office, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va. 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DARPA employees, civilian and military. Selected government employees who visit DARPA on official business at DARPA's expense and certain nongovernment personnel traveling on Invitational Travel Orders for DARPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

traveler's last name, first name, middle initial, office, division travel dates, days, ticket cost, other cost, travel order number, and status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Section 301, Department of Defens Directive 5105.41, "Defense Advanced Research Projects Agency (DARPA)", June 8, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal management administrative, and budgetary needs. Provides daily, weekly and monthly status reports to top management concerning status of travel funds.

Internal users, uses, and purposes: Director and Deputy Directors, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Administrative Officers, DARPA.

External users, uses, and purposes: None.

POLICIES AND PRACTICES FOR STORING RETREIVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer paper printouts, paper records and correspondence in file folders, also, magnetic disc.

RETRIEVABILITY:

Accessed by last name, by office, or by any of the data files listed in Record Category.

SAFEGUARDS:

Paper copies are maintained in areas accessible only to authorized personnel. Building employs security guards. File access is available to authorized personnel who have been assigned system passwords.

RETENTION AND DISPOSAL:

Paper files will be destroyed by burning or pulping immediately after they have served their purposes or after 2 years, whichever occurs first. There are no plans to retired or destroy ADP files.

SYSTEM MANGER(S) AND ADDRESS:

Administrative Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

NOTIFICATION PROCEDURE:

Information may be obtained from Administrative Officer, DARPA, Room 607, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209, Telephone (202) 694–3032.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Administrative Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

Written requests for information should contain the full name of the individual, the period for which the information is required and specific categories of information required.

For personal visits, the individual should be able to provide DoD Identification Card.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

DARPA Special Orders (TDY, Invitational, PCS, etc.); Travel Vouchers as submitted by travelers and as returned by the local finance offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

E DARPA 004

SYSTEM NAME:

DARPA Personnel.

SYSTEM LOCATION:

Administrative Services Office, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va. 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DARPA employees, civilian and military, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Database File: title, last name, first name, middle initial; date of birth, social security number, service computation; office, division, office phone number, room number; type of appointment, job title, position description number, job series number, grade type, grade, step, salary; due date for reassignment; date of last within grade increase, due date for next within grade increase; date promoted; type of award and date granted, previous award and date granted, date of last outstanding performance rating; level of

security clearance; branch of military service, rank, date of rank; home address, home telephone number, spouse's first name; date entered on duty, date of departure; remarks, entered on duty remarks, and departure remarks. Training Database File: last name, first name, middle initial, office, grade, title of course, training cite location, cost, training period dates, sponsor, and status. Consultant Database File: last name, first name, middle initial, office, number of days allowed to be worked, salary type, salary, appointment date, expiration date of appointment, departure date, and remarks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Section 301; Department of Defense Directive 5105.41, "Defense Advanced Research Projects Agency (DARPA)", June 8, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in different combinations is used for monthly manpower counts, staffing balance for civilian vs. military, professional vs. clerical; grade and salary count. Individual organizational configuration only is available to appropriate Office Directors for their managerial needs.

Internal users, uses, and purposes: Agency Director and Deputies, Office Director and Deputies, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Administrative Officers, DARPA.

External users, uses, and purposes: None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disk, computer paper printouts, paper records, and correspondence in file folders.

RETRIEVABILITY:

Data is retrievable by last name as well as by any of the data fields listed in Record Category.

SAFEGUARDS:

Access to total file limited by password, building employs security guards. Files are maintained in combination lock file cabinets and in areas accessible only to authorized personnel that are properly screened and trained.

RETENTION AND DISPOSAL:

Files are permanent. There are no plans to retire or destroy ADP files. Paper files are destroyed immediately after serving the purpose for which prepared.

SYSTEM MANAGER(S) AND ADDRESS:

Manpower Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

NOTIFICATION PROCEDURE:

Information may be obtained from Manpower Officer, DARPA, Room 605, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209, Telephone (202) 694–3077.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Manpower Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

Written requests for information should contain the full name of the individual, the DARPA office assigned to currently or previously and the period of employment with DARPA.

For personal visits, the individual should be able to provide some acceptable identification, such as DARPA pass, DoD pass, or verbal information that could be verified in his file.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is provided by individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-6245 Filed 2-24-81; 8:45 am]
BILLING CODE 3810-70-M

Office of the Secretary

Defense Science Board; Task Force on Anti-Tactical Missiles; Change in Meeting date

The Defense Science Board Task Force on Anti-Tactical Missiles closed meeting scheduled for 24–25 February 1981 in Arlington, Virginia, as published in the **Federal Register** (Vol. 46, No. 24, dated Thursday, February 5, 1981, FR Doc. 81–4256) has been changed to 12–13 March 1981. In all other respects, the original notice cited above remains the same.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

February 19, 1981.

[FR Doc. 81-6246 Filed 2-24-81; 8:45 am]
BILLING CODE 3810-10-M

DEPARTMENT OF ENERGY

Finding of No Significant Impact; Turbocompound Diesel Engine Program

The Department of Enery has prepared an environmental assessment to support the continuation of the program to develop, demonstrate, and commercialize a turbocompound diesel engine to utilize engine exhaust gas energy to increase power output and thereby increase fuel economy. Based on the findings of the assessment, which is available to the public on request, the Department has determined that the proposed continuation of the program does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement is required.

The purpose for the program is to develop and test an advanced technology diesel engine concept and, if warranted, to proceed with demonstration activities and commercialization. The present program involves highway tests and demonstrations of two trucks with prototype turbocompound diesel engines. Planned follow-on activities include turbocompound component improvements and demonstration of up to four trucks. Commercialization is targeted for the mid-to-latter 1980's with the extent of market penetration dependent on the results of the development, testing, and demonstration activities. The potential market penetration for the engines in the year 2000 is estimated at 12,500 trucks. The engine concept promises significant fuel savings beneifts over conventional heavy duty diesel engines by utilizing otherwise wasted exhaust gas energy to increase power output.

Turbocompound diesel engines would displace conventional heavy duty diesel engines if commercialized. Therefore, the environmental assessment addresses the incremental differences in impacts as compared to conventional engines rather than additive impacts.

Environmental concerns that are addressed in the assessment include:

Air Quality: Preliminary test data indicate that turbocompound engines meet all existing emission standards for heavy duty diesel operations. While the question of meeting more stringent 1983 standards has not been studied at this early state of development, it is anticipated that the trubocompound engines are more likely to meet those standards than conventional heavy duty diesel engines. There is currently no particulate emission standard for heavy duty trucks, although future standards are being considered by the Environmental Protection Agency. While no particular testing has been done at this early stage of development, best engineering estimates indicate that particulate emissions should be within the range of plus or minus 15 percent of those of heavy duty diesel engines and the particulates should be nearly identical to heavy duty diesel particulates in terms of physical and chemical characteristics. If emission standards are established for particulates, turbocompound diesel engines would be required to meet those standards before they could be commercially produced.

Health: Regulated pollutant emissions are not expected to change significantly if turbocompound diesel engines displace conventional heavy duty diesels; therefore no additional adverse impacts on health are anticipated. The quality and quantity of currently unregulated particulate emissions and their effects on health need to be studied further. However, there is no evidence at this time indicating there will be any significant changes in the environment in regard to health effects as a result of the program.

Safety: The added power at medium and high speeds provided by the turbocompound feature acts to reduce the effectiveness of a normal braking system. This decreased braking capability would be more pronounced in downsized displacement engines (taking advantage of the increased power at higher speeds) than it would be in existing diesel engine displacement sizes that incorporate the turbocompound feature.

Since the turbocompound feature is only effective at medium and high speeds, smaller displacement engines which could be used may lack power, and subsequently, acceleration at low speeds. If the turbocompound concept is simply incorporated into existing engine displacement engines, there would be an increase of power in the vehicles medium and high range engine speeds with no loss of power at low engine speeds.

Noise: Turbocompound diesel engines are not expected to be significantly noiser than standard turbocharged diesel engines and may be slightly less noisy than the basic non-turbocharged diesel engines. No significant problems are anticipated in meeting 1982 standards.

Fuel Economy: The turbocompound diesel engine is expected to have a positive impact on fuel economy. An 8.5 percent reduction if fuel use is expected to occur at the engine's rated output. The fuel savings potential is greatest at high engine speeds, when the turbines operate most effectively.

Alternatives to the proposed program, which are addressed in the environmental assessment, include: (1) no action (2) continuing the current program (3) delaying the program, and (4) accelerating the program.

The environmental assessment is a preliminary assessment of the effects of the program prepared at an early stage in the development of the new engine concept before the technology has advanced to a stage where future program decisions may be limited. Because the engine is in the early stages of development, conclusive test data is generally unavailable. Further studies are planned, as development and testing progress, to collect additional data on the environmental effects related to the new engine concept. As those studies are complete, the environmental assessment will be updated, if necessary, to reflect any new findings that may require a reevaluation of the need for preparing further environmental documentation.

Copies of the environmental assessment are available from: Dr. Daniel P. Maxfield, Program Manager, Office of Transportation Programs, Room 5E–091, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone: 202–252–8021.

For further information contact: Raymond Pelletier, NEPA Affairs Division, Office of Environmental Compliance and Overview, Office of the Assistant Secretary for Environment, Room 4G–064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202–252–4610.

Copies of the assessment are also available for public review in the Department's Freedom of Information Reading Room in Room 1E–090 at the address listed above, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Dated at Washington, D.C., this 19th day of February 1981 for the United States Department of Energy.

Alex G. Fremling,

Acting Assistant Secretary for Environment.

[FR Doc. 81-6335 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(a)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided that a meeting of the Industry Supply Advisory Group (ISAG) of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on March 12 and 13, 1981, at the offices of Standard Oil Company of California, 575 Market Street, San Francisco, California, beginning at 9:00 a.m. on March 12. The agenda for the meeting is as follows: Review and update ISAG/Secretariat. Operations Manual.

As provided in section 252(c)(1)(A) (ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., February 19, 1981.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 81-6337 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[OFC Case No. 50486-9044-02-12; Docket No. ERA-FC-79-011]

Central Illinois Public Service Co.; Termination of Proceeding

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Termination of proceeding—Central Illinois Public Service Company.

SUMMARY: On November 5, 1979, Central Illinois Public Company (CIPS) filed a subsequently accepted (December 13, 1979, 44 FR 72216) petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting 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.*) which prohibit the use of petroleum or natural gas as a primary energy source in certain new MFBIs.

The MFBI for which the petition was filed is a oil-fired package boiler to be

permanently installed at the CIPS Coffeen Power Station in Coffeen, Illinois, to perform the auxiliary functions necessary for electric utility boilers. The boiler has a design heat input rate capability of 200 million Btu's per hour. The unit has been designed to burn No. 2 fuel oil. CIPS requested a permanent emergency purposes exemption.

On November 19, 1980, the Department of Energy's office of the General Counsel issued an Interpretation (Interpretation No. 1980–42) which determined that the fuel used in order to perform auxiliary functions at an electric utility shall be excluded from the definition of "primary energy source" contained in the Act and its implementing regulations (10 CFR 5002). The implementing regulations provide that fuel in amounts up to 15% of the total annual heat input rate of a unit may be used for auxiliary purposes such as ignition, start-up, flame stabilization and control. Thus, as long as CIPS uses fuel for auxiliary purposes, and not in excess of the 15% limitation, it is not required to obtain the explicit permission of the Economic Regulatory Administration of DOE to permit the use.

Accordingly, ERA has terminated the proceedings begun by the filing of the Central Illinois petition.

FOR FURTHER INFORMATION CONTACT:

Mrs. Ellen Russell, Case Manager, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–4477

Edward Jiran, Esq., Office of the General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6B–178, Washington, D.C. 20585, Phone (202) 252–2967.

The public file, containing copies of all documents and supporting materials on this proceeding, is available upon request at: ERA, Room B–110, 2000 M Street, NW, Washington, D.C., Monday through Friday, 8 a.m.–4:30 p.m.

Issued in Washington, D.C. on February 18, 1981.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-6338 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER81-275-000]

Alabama Power Co.; Filing

February 20, 1981.

The filing Company submits the following:

Take notice that Alabama Power Company on February 13, 1981, tendered for filing an Agreement with The City of Dothan, intended as an initial rate schedule. The filing is for the proposed East Haven delivery point of the City of Dothan. The delivery point will be served at the Company's applicable revision to Rate Schedule MUN–1 incorporated in FERC Electric Tariff, Original Volume No. 1 of Alabama Power Company.

Copies of the filing were served upon The City of Dothan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6271 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4011-000]

Allegheny Electric Cooperative, Inc.; Application for Preliminary Permit

February 23, 1981.

Take notice that Allegheny Electric Cooperative, Inc. (Applicant) filed on January 11, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 4011 to be known as the Bloomington Dam Project located on the North Branch of the Potomac River in Garrett County, Maryland and Mineral County, West Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Anthony C. Adonizio, Assistant General Counsel, Allegheny Electric Cooperative, Inc.; 212 Locast Street, P.O. Box 1266, Harrisburg, Pennsylvania 17108. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the proposed U.S. Army Corps of Engineers' Bloomington Dam and would consist of: (1) an intake structure; (2) a 4,000-foot long penstock; (3) a powerhouse having an installed generating capacity of 15,000 kW; (4) a tailrace; (5) transmission lines; and (6) appurtenant works. The Applicant estimates that the average annual energy output would be 77,000,000 kWh.

Purpose of Project—Project energy would be utilized by the Applicant and its members.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of studies under the permit would be $120,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly form the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or

before April 24, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 24, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4011. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commisssion, 825 N. Capitol St., N.E., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Application Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6257 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4091]

Brazos River Authority; Application for Preliminary Permit

February 23, 1981.

Take notice that Brazos River Authority (Applicant) filed on January 30, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 4091 to be known as the Belton Project located on the Leon River near the Town of Belton, Bell County, Texas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Carson H. Hoge, Brazos River Authority, 4400 Cobbs Drive, P.O. Box 7555, Waco, Texas 76710. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers Belton Dam and Reservoir and would consist of a powerhouse with one or more generating units having a total rated capacity of 16 MW, and a transmission line. The project would be capable of generating up to 26,920,000 kWh annually.

Purpose of Project—Energy generated at the project would likely be sold to Texas Power and Light Company or Brazos Electric Power Cooperative for distribution to their customers.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be in excess of $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the Belton Project No. 3370 filed on August 25, 1980, by Continental Hydro Corporation under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petitions to intervene must be received on or before March 19, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4091. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and

those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6258 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4023-000]

Central Maine Power Co. and Union Water Power Co.; Application for Preliminary Permit

February 20, 1981.

Take notice that Central Maine Power Company and Union Water Power Company (Applicant) file on January 16, 1981, and application for preliminary permit [pursuant to the Federal Power act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4023 to be known as the Rangeley Project located on the Rangeley Lake in Franklin County, Maine. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Jon S. Readnour, Central Maine Power Company, Edison Drive, Augusta, Maine 04376. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) and existing 280-foot long, 15.5-foot high timber crib dam; (2) Rangeley Lake with a surface area of 7,680 acres and a storage capacity of 30,774 acre-feet; (3) a new powerhouse located immediately below the dam with a single turbine-generator with a rated capacity of 300 kW; (4) a transmission line; and (5) appurtenant facilities.

The applicant estimates that the average annual energy output would be 900,000 kWh.

Purpose of Project—Energy produced at Project No. 4023 would be utilized by Central Maine Power Company for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under this preliminary permit would include economic evaluation, engineering plans, and an environmental assessment. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the work to be performed under this preliminary permit would cost $90,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the nucessary studies and examinations to determine the engineering, economic and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a timely notice of intent allows an interested person to file the competing application must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title " COMMENTS," NOTICE OF INTENT TO FILE COMPETING APPLICATION," COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4023. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6251 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-170-000]

Cities Service Gas Co.; Notice of Application

February 23, 1981.

Take notice that on February 2, 1981, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No CP81-170-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities necessary for the sale of natural gas to Empire District Electric Company (Empire), all as more fully set forth in the application which is on file

with the Commission and open to public inspection.

Applicant proposes herein to operate approximately ten miles of 12-inch pipeline being constructed by Empire in order to facilitate the direct sale of natural gas on an interruptible basis to Empire at its Energy Center near La Russell, Missouri. Applicant states that the pipeline would extend from Applicant's 16-inch Springfield pipeline in Newton County, Missouri, and would extend to Empire's Energy Center site in Jasper County, Missouri, where Applicant would construct and operate metering, regulating and appurtenant facilities. Applicant would also tap its 16-inch line in Newton County, it is stated.

It is stated that Empire is currently operating one 90 megawatt combustion turbine for electric generation at its Energy Center using No. 2 distillate fuel oil. It is asserted that a second identical turbine is presently under construction and is expected to be in commercial operation during the spring of 1981. Applicant states that Empire desires to fuel both units with natural gas and has received a temporary five-year Public Interest Exemption from the Economic Regulatory Administration.

Applicant states that the subject gas would be used to provide peak service during the months of April through November of each year with lesser volumes possibly used during the other months. Applicant asserts that its current gas supply is sufficient to meet Empire's demands; therefore, no new gas supply would be needed.

Applicant estimaties the total cost of its proposed facilites to be $225,670 which would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdication conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary

[FR Doc. 81-6259 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-173-000]

Columbia Gulf Transmission Co.; Application

February 20, 1981.

Take notice that on February 3, 1981, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP81-173-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon two Dresser Industries Clark Model RA-6 compressor units at Applicant's Paradis, Louisiana, compressor station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it purchased the Paradis compressor station pursuant to a gas sales and purchase contract dated May 22, 1953, between Columbia Gas Transmission Corporation and Texaco, Inc. (Texaco) which provided that at the end of a twenty-year amortization period Applicant would transfer ownership of the subject facilities to Texaco. The subject facilities were placed in service in November 1954, it is stated.

It is stated that in August 1975, Applicant transferred ownership of the subject facilities to Texaco. Applicant contends that at that time it believed permission and approval to abandon to be unnecessary since its facilities were considered a gathering facility until 1958 when Applicant converted all of its gathering facilities into transmission facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 13, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6252 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST80-133-001]

Delhi Gas Pipeline Corp.; Petition to Amend

February 23, 1981.

Take notice that on January 30, 1981, Delhi Gas Pipeline Corporation (Petitioner), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. ST80-133-001 a petition to amend the order issued March 7, 1980, in the instant docket pursuant to section 312 of the Natural Gas Policy Act of 1978 (NGPA) and § 284.162 of the Commission Rules (18 CFR 284.162) for prior Commission approval to assign

new and additional contractual rights to purchase natural gas to United Gas Pipe Line Corporation (United), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order of March 7, 1980, it was authorized to assign its rights under 222 contracts to receive up to a daily maximum of 200,000 Mcf of surplus natural gas to United for the period ending December 12, 1982. It is stated that the natural gas had been dedicated by Petitioner to United Texas Transmission Company (United Texas) but was surplus to United Texas' needs and that Petitioner assigned the gas to United on a self-implementing basis pursuant to § 284.163 of the Regulations. Petitioner states that the order allowed Petitioner to charge United a price above the NGPA Section 102 price so long as it did not exceed an amount permitted by Part 271 of the Commission's Regulations.

Petitioner asserts that certain of the original 222 gas purchase contracts have been eliminated for the convenience of both parties and have been replaced with contracts having higher daily deliver-ability. Petitioner proposes to assign these additional contractual rights to purchase gas to United so long as the prices thereunder do not exceed the prices established in Part 271 of the Commission Regulations. It is stated that the volumes of gas covered by the new contracts which are substituted for certain of the original 222 contracts added to the remaining contracts still would not exceed the 200,000 Mcf per day of surplus gas previously authorized.

In addition, Petitioner proposes to dedicate additional gas purchase rights to United Texas which Petitioner would acquire from time to time during the next five years. It is stated that most, if not all, of the gas covered by additional dedication contracts would be East Texas Cotton Valley tight formation gas covered by Commission Orders No. 99 and 105. Petitioner states further that some of the gas covered by these contracts may from time to time be surplus to United Texas and that United Texas has contractually agreed with Petitioner to release said surplus gas for assignment by Petitioner to United. It is stated that because the price of gas covered by these additional dedications would exceed the NGPA Section 102 price, Petitioner requests prior authorization to assign the gas purchase rights covered by these additional dedications to United between now and December 12, 1982, so long as the total deliverability of gas covered by all of the contracts assigned by Petitioner to United is less than the 200,000 Mcf per day authorized surplus deliverability.

Petitioner asserts that amendments to the assignment agreement would not affect the terms under which surplus gas under the old contracts is assigned to United and that said gas has already been released by United Texas on a continuous but interruptible basis. It is stated that the transportation rate and other provisions concerning the delivery under Section 311(a)(2) of the Regulations of the assigned gas under all contracts are identical and that the amendments would not extend the term of the assignment beyond the present expiration date of December 12, 1982.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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 a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6260 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-281-000]

Duke Power Co.; Supplement to Electric Power Contract

February 20, 1981.

The filing Compay submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on February 17, 1981 a supplement to the Company's Electric Power Contract with Blue Ridge Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 142.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in designated damand: Delivery Point No. 4 from 3,500 KW to 3,800 KW, Delivery Point No. 5 from 6,500 KW to 8,000 KW, Delivery Point No. 6 from 7,800 KW to 10,000 KW, Delivery Point No. 9 from 9,000 KW, to 10,000 KW. Delivery Point No. 11 from 6,800 KW to 8,000 KW, Delivery Point No. 12 from 2,900 KW to 3,600 KW and Delivery Point No. 15 from 3,000 KW to 3,200 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for twelve months immediately succeding the effective date. Duke Power porposes an effective date of April 21, 1981.

According to Duke Power copies of this filing were mailed to Blue Ridge Electric Cooperative, Inc., and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or portests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secetary.

[FR Doc. 81-6272 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-184-000]

Eastern Shore Natural Gas Co.; Notice of Application

February 20, 1981.

Take notice that on February 9, 1981, Eastern Shore Natural Gas Company (Applicant) P.O. Box 615, Dover, Delaware 19901, filed in Docket No. CP81-184-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b) for a certificate of public convenience and necessity authorizing the construction during an indefinite period commencing March 1, 1981, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant, and supplies of natural gas from Applicant's own production or acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total cost of the proposed facilities for the partial calendar year 1981 would not exceed $416,666.66. Applicant asserts that in subsequent years the total cost of the proposed facilities would not exceed $500,000 with no single onshore project to exceed a cost of $500,000. Such costs, it is asserted, would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 13, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6253 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-172-000]

Florida Gas Transmission Co.; Notice of Application

February 20, 1981.

Take notice that on February 2, 1981, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP81-172-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necesssity authorizing the construction and operation of facilities for a new delivery point for the delivery of natural gas to Gainesville Gas Company (Gainesville), an existing customer of Applicant, all as more fully set forth in the Application which is on file with the Commission and open to public inspection.

Pursuant to a letter agreement dated November 3, 1980, Applicant proposes herein to construct and operate an additional delivery point for Gainesville at a mutually agreeable point on Applicant's 8-inch Inglis lateral pipeline in Alachua County, Florida. It is asserted that the new delivery point, consisting of a tap, a valve, a new meter and regulatory station, would cost $54,700 which would be reimbursed by Gainesville.

Applicant states that it would deliver on a firm basis up to 70,000 therms of natural gas per day to Gainesville for residential and small commercial customers in Gainesville's service area by means of the proposed facility.

Applicant further states that the November 3, 1980, letter agreement further provides that the additional delivery point would not affect Gainesville's volumetric entitlement for firm service and that deliveries at the proposed point of delivery would not exceed 70,000 therms per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 13, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commissions Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6254 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-278-000]

Florida Public Utilities Co.; Proposed Tariff Change

February 20, 1981.

The filing Company submits the following:

Take notice that on February 13, 1981, Florida Public Utilities Company (Florida Public Utilities), P.O. Drawer C, West Palm Beach, Florida 33402, tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes would increase revenues for jurisdictional sales and service by $253,739 annually, based on the 12-month period ending September 30, 1980. Florida Public Utilities requests that the proposed tariff changes be made effective on March 1, 1981.

Florida Public Utilities states that the proposed tariff changes are applicable to its wholesale sales and service to the City of Blountstown, Florida, which is the company's only jurisdictional customer. The company states that it purchases power from Gulf Power Company at the latter's Altha Substation, part of which is used in its distribution operations in its Marianna,

Florida, division and part of which is resold at wholesale to Blountstown. The company states that the purposes of its tariff changes is to pass through to Blountstown the effect on its purchases at the Altha Substation of Gulf Power Company's increase in rates, pending in Docket No. ER80-536, which will become effective, after suspension, on March 1, 1981.

Florida Public Utilities states that copies of the filing were served upon the City of Blountstown and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are availabe for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6273 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-277-000]

Gulf States Utilities Co.; Filing

February 20, 1981.

The filing Company submits the following:

Take notice that on February 13, 1981 Gulf States Utilities Company (Gulf States) tendered for filing a letter supplementing the existing agreement between Gulf States and the Southwest Louisiana Electric Membership Corporation (SLEMCO) for the provision of wholesale electric service. Gulf States indicates that the supplement gives notice of the discontinuation of one (1) Point of Delivery in the agreement.

According to Gulf States a copy of the filing was served on the Louisiana Public Service Commission.

Any person desiring to be heard or protest said filing, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission, and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6274 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST79-13-001]

Hydrocarbon Transfer, Inc. and Advance Transport, Inc.; Intent to Continue Sale of Natural Gas

February 23, 1981.

Take notice that on January 12, 1981, Hydrocarbon Transfer, Inc. (Hydrocarbon), 509 Marshall Street, Suite 1200, Slattery Building, Shreveport, Louisiana 71101, and Advance Transport, Inc. (Advance), 509 Marshall Street, Suite 1200, Slattery Building, Shreveport, Louisiana 71101, filed in Docket No. ST79-13-001 an intent to continue sale of natural gas pursuant to Section 284.146 of the Commission's Regulations under the Natural Gas Policy Act of 1978 to United Gas Pipe Line Company (United) through April 12, 1983, all as more fully set forth in the filing which is on file with the Commission and open to public inspection.

Applicants state that they have entered into a gas purchase and sales contract dated March 29, 1979, with United which provides for the sale of gas in excess of the quantity of gas which is required for them to provide adequate service to their intrastate customers. Applicants assert that during the original two-year sale term which terminates on April 12, 1981, Applicants would have sold an estimated 43,728 million Btu per day or a total of 32,500,000 million Btu and that during the 2-year extension ending April 12, 1983, proposed herein Applicants estimate the sale of 62,500 million Btu or a total of 45,640,000 million Btu to United.

Applicants state that the average rate charged in November 1980 for gas delivered by Hydrocarbon and Advance to United was $3.965561 per million Btu including severance tax reimbursement and gathering, transporting and delivery.

Any person desiring to be heard or to make any protest with reference to said filing should on or before March 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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 a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6261 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-268-000]

Idaho Power Co.; Filing

February 20, 1981.

The filing Company submits the following:

Take notice that on February 11, 1981, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during December, 1980, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6275 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-267-000]

Kentucky Utilities Co.; Filing

February 20, 1981.

Take notice that on February 10, 1981, the Kentucky Utilities Company (KU) tendered for filing 14 contracts for termination of service under those

contracts effective May 31, 1981. KU Proposes an effective date of June 1, 1981.

KU states that a copy of the contract was sent to each applicable customer and a copy of each of the 14 contracts were sent to the Kentucky Energy Regulatory Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 29426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6276 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-274-000]

Montana Power Co.; Notice of Filing

February 20, 1981.

The filing Company submits the following:

Take notice that the Montana Power Company (Montana) on February 11, 1981, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreements with the City of Burbank (Burbank). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Burbank.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdicational sales by $261,492,000, based upon energy delivered from September 15, 1980 through December 31, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of September 15, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

In addition, Montana also tendered for filing a Notice of Cancellation of the Rate Schedule and all of its supplements, herein filed. Montana states that these agreements have expired as of their own terms and have not been renewed.

Any person desiring to be head or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6285 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-270-000]

Montana Power Co.; Filing

February 20, 1981.

The filing company submits the following:

Take notice that The Montana Power Company ("Montana") on February 11, 1981, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreements with Colockum Transmission, Inc. ("Colockum"). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Colockum.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdictional sales by $424,500, based upon energy delivered from September 23, 1980 through October 31, 1980. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of September 23, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

In addition, Montana tendered for filing a Notice of Cancellation of the Rate Schedule and all of its supplements, herein filed. Montana states that this agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 or the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6277 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-271-000]

Montana Power Co.; Filing

February 20, 1981.

The filing company submits the following:

Take notice that The Montana Power Company ("Montana") on February 11, 1981, tendered for filing in accordance with Section 35 of the Commission's regulations, a Letter Agreement with Puget Sound Power & Light Company ("Puget"). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Puget.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdictional sales by $1,362,027.24, based upon energy delivered from August 4, 1980 through September 1, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of August 4, 1980 is proposed and waiver of the Commission's requirements is therefore requested.

In addition, Montana also tendered for filing a Notice of Cancellation of the Rate Schedule and all of its supplements, herein filed. Montana states that these agreements have expired as of their own terms and have not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6278 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-272-000]

Montana Power Co. Filing

February 20, 1981.

The filing company submits the following:

Take notice that The Montana Power Company ("Montana") on February 11, 1981, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreements with the City of Glendale ("Glendale"). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Glendale.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictionial sales by $261,492, based upon energy delivered from September 15, 1980 through December 31, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of September 15, 1980 is proposed and waiver of the Commission's requirements is therefore requested.

In addition, Montana also tendered for filing a Notice of Cancellation of the rate Schedule and all of its supplements, herein filed. Montana states that these agreements have expired as of their own terms and have not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6279 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-273-000]

Montana Power Co.; Filing

February 20, 1981.

The filing company submits the following:

Take notice that the Montana Power Company ("Montana") on February 11, 1981, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreements with the City of Pasadena ("Pasadena"). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Pasadena.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $156,216,000, based upon energy delivered from September 15, 1980 through December 31, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of September 15, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

In addition, Montana also tendered for filing a Notice of Cancellation of the Rate Schedule and all of its supplements, herein filed. Montana states that these agreements have expired as of their own terms and have not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commsssion and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6280 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-279-000]

Northern States Power Co.; Filing

February 20, 1981.

The filing Company submits the following:

Take notice that Northern States Power Company, on February 13, 1981, tendered for filing Supplement No. 2, dated December 15, 1980, to the Interconnection and Interchange Agreement, dated April 23, 1968, with Northwestern Public Service Company.

Supplement No. 2 removes the Marion Interconnection from the terms of the Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6206 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CP76-389-005 and CP79-277-005]

Northwest Pipeline Corp.; Notice of Amendments to Applications

February 23, 1981.

Take notice that on January 5, 1981, Northwest Pipeline Corporation (Applicant), 315 East Second Street South, Salt Lake City, Utah 84111, filed in Docket Nos. CP76-389-005 and CP79-277-005 amendments to the pending applications [1] filed in the instant dockets pursuant to Section 7(c) of the Natural Gas Act so as to reflect in Docket No. CP76-389-005 an increase in the amount of natural gas withdrawn from the Clay Basin Storage Field, Daggett County, Utah, and to reflect in Docket No. CP79-277-005 a change in the allocation between customers of the total daily and seasonal quantities of winter gas service under Applicant's Rate Schedule WS-1, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant proposes in Docket No. CP76-389-005 to increase the daily quantity of natural gas which Applicant is authorized to withdraw from the Clay Basin Storage Field commencing with

[1] These proceedings were commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), they were transferred to the Commission.

the 1981–82 heating season from 150,000 Mcf per day to 225,000 Mcf per day and to increase the seasonal withdrawal quantity from 20,000,000 Mcf to 31,750,000 Mcf and further to increase the base cushion gas from 25,300,000 Mcf to 45,400,000 Mcf.

Applicant further proposes in Docket No. CP79–277–005 to change the allocation between customers of the total daily and seasonal quantities of winter gas service under its Rate Schedule WS–1 and the quantity of peak-day and seasonal volumes which would be reserved for the purpose of protecting Applicant's contract demand obligation to its customers.

It is stated that on August 6, 1980, Applicant filed to amend its application in Docket No. CP79–277 seeking a reallocation of the sale and delivery of natural gas pursuant to its Rate Schedule WS.1 for the 1980–81 heating season, a reallocation and expansion of winter service for the 1981–82 heating season, and the continued sale and delivery of natural gas pursuant to its Rate Schedule WS–1 for the 1982–83 season through 1988–89 season.

It is stated that Mountain Fuel Supply Company (Mountain Fuel) has notified Applicant that it requires winter service only for the 1980–81 heating season and is in the process of making other arrangements for the 1981–82 heating season. Applicant, therefore, proposes to provide winter service under its Rate Schedule WS–1 as follows:

Customer	Volume (Mcf 14.73 psia)	
	Daily	Seasonal
1980–81 season:		
Colorado Interstate Gas Co. (CIG)	45,000	4,500,000
Southwest Gas Corporation	15,000	1,500,000
Washington Natural Gas Co. (Washington)	15,000	1,500,000
Mountain Fuel	25,000	2,500,000
Total	100,000	10,000,000
Revised		
1981–82 season:		
CIG	135,000	20,250,000
Washington	15,000	1,500,000
Mountain Fuel	0	0
Total	150,000	21,750,000
No Change		
1982–83 through the 1988–89 season:		
CIG	135,000	20,250,000
Washington	15,000	1,500,000
Mountain Fuel	0	0
Total	150,000	21,750,000

It is asserted that the resultant change in allocations of Clay Basin Storage capabity is as follows:

	Daily (Mcf/day)	Seasonal (Mcf)
No Change		
1980–81 heating season:		
Winter service	100,000	10,000,000
Contract demand protection	50,000	7,500,000
Total	150,000	17,500,000
Revised		
1981–82 heating season: Revised		
Winter service	150,000	21,750,000
Contract demand protection	75,000	10,000,000
Total	225,000	31,750,000
No Change		
1982–83 through the 1988–89 heating season:		
Winter service	150,000	21,750,000
Contract demand protection	75,000	10,000,000
Total	225,000	31,750,000

Applicant, therefore, proposes herein to increase the daily withdrawal capacity from 150,000 Mcf per day to 225,000 Mcf per day and to increase the seasonal withdrawal capability from 20,000,000 Mcf to 31,750,000 Mcf.

It is stated that Mountain Fuel Resources Inc. (Resources) as owner and operator to the Clay Basin Storage Field has informed Applicant that as a result of El Paso Natural Gas Company phasing out its utilization of Clay Basin and the increased utilization of Clay Basin as contemplated additional cushion gas is required by Applicant.

Applicant estimates the cost of the additional cushion gas is $30,470,293 which would be financed from funds on hand or short term borrowings pending a permanent form of financing.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6262 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-171-000]

Panhandle Eastern Pipe Line Co.; Application

February 20, 1981.

Take notice that on February 2, 1981, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81–171–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Zenith Natural Gas Company (Zenith), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation and gas purchase and sales agreement dated August 26, 1980, Applicant proposes to transport up to 1,500 Mcf of natural gas per day to Applicant's facilities west of Haven, Kansas, for delivery to Zenith. Applicant, it is stated, would receive the subject gas through an exchange arrangement wherein Cities Service Gas Company would receive, *inter alia*, the volumes of natural gas from Zenith in Barber County, Kansas, and redeliver thermally equivalent volumes of natural gas to Applicant in Kingfisher County, Oklahoma, or in Grant County, Kansas. Applicant states that Zenith would pay 4.94 cents per Mcf of natural gas transported to the Haven redelivery point. Applicant states that the agreement provides that Applicant may purchase from Zenith up to 5,000 Mcf of surplus volumes of natural gas per day as available on Zenith's pipeline system in Kansas. The purchase price would equal Zenith's system weighted average acquisition cost per million Btu during the month in which purchases would be made plus a transportation charge of 75.0 cents per Mcf, it is stated.

The 10-year agreement would commence the first day of the month following the month in which initial gas deliveries would commence and from year to year thereafter, it is stated.

Applicant further submits that necessary measuring facilities at the Haven delivery point would be constructed pursuant to Applicant's budget authorization as would any facilities necessary to attach any new supplies to Zenith's system for transportation by Zenith.

Applicant asserts that its right to purchase gas from Zenith would be benefical because the area transgressed by Zenith's system may provide new sources of supply for Applicant's pipeline system.

Any person desiring to be heard or to make any protest with reference to said

application should on or before March 13, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6255 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-166-000]

U-T Offshore System; Application

February 23, 1981.

Take notice that on January 30, 1981, U-T Offshore System (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-166-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities to increase the capacity of its pipeline system and to render increased firm transportation service for Applicant's shippers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is currently authorized to own and operate approximately 30 miles of 42-inch pipeline and appurtenant facilities extending from a point of interconnection with the High Island Offshore System (HIOS) in West Cameron Block 167, offshore Louisiana, to a point of interconnection with the existing onshore facilities of Transcontinental Gas Pipe Line Corporation (Transco) and Natural Gas Pipeline Company of America (Natural) near Johnson's Bayou, Louisiana. Applicant states that it currently transports up to 730,000 Mcf of natural gas per day for ten shippers but that the shippers expected to have approximately 1,100,000 Mcf of natural gas per day available by October 1979. It is stated that authorization for Applicant to expand its capacity to 1,200,000, Mcf per day was made dependent upon HIOS receiving an appropriate amendment to its certificated capacity in Docket Nos. CP75-104, *et al.*, which has been consolidated with Applicant's fourth petition to amend and which is currently waiting final disposition.

It is stated that the proposed increase in HIOS' firm capacity would be achieved through a two-phase construction program with Phase I increasing HIOS' firm delivery capacity to 2,204,300 Mcf per day and Phase II increasing it further to 2,610,500 per day. Applicant asserts that HIOS plans to increase its shippers' firm transportation quantity after each of the two construction phases is completed and placed in service. Applicant also states that it has received requests from its shippers for increased firm transportation service based for the most part upon such shipper's requests for HIOS transportation service as reflected in HIOS' filings and as adjusted by certain shippers to reflect a split in such shipper's quantities between Applicant and Michigan Wisconsin Pipe Line Company for delivery to shore. Applicant states that the increased level of firm transportation service proposed for each of Applicant's shippers is as follows:

Shippers	1,000 ft³		
	Currently effective contract demand	Contract demand proposed herein	
		Phase I	Phase II
Natural	131,530	235,090	277,870
Transco	131,530	346,770	409,850
United Gas Pipe Line Company	143,500	306,990	362,710
Columbia Gas Transmission Corporation	40,620	69,610	69,470
Consolidated Gas Supply Corporation	24,950	58,770	69,470
Tennessee Gas Pipeline Company, a Division of Tenneco Inc.	15,270	50,000	50,000
El Paso Natural Gas Company	17,560	39,780	49,620
Trunkline Gas Company	133,130	187,850	198,480
Northern Natural Gas Company, Division of InterNorth, Inc.	86,420	134,400	158,780
National Fuel Gas Supply Corporation	5,490	8,250	8,240
Total	730,000	1,437,510	1,654,490

Applicant proposes to render increased firm transportation services to its shippers within the limits of its increased capacity as proposed herein and would file appropriate tariff sheets (1) to revise the current effective contract demand of each shipper under its T Rate Schedules, (2) to change the demand and commodity charges to reflect the increased level of firm contract demands of shippers and a reasonable level of annual throughput, and to reflect the then-current Applicant cost of service, and (3) to make such other appropriate modifications if any to the rate form and to the T Rate Schedules.

Applicant maintains that its existing facilities in conjunction with the additional facilities pending certification in Applicant's fourth petition to amend do not have sufficient capacity to render the increased levels of firm transportation service proposed herein or to increase Applicant's capacity to 1,654,490 Mcf per day. Applicant therefore proposes to construct and operate 13,800 horsepower of compression and appurtenant facilities at the Johnson's Bayou plant, West Cameron Parish, Louisiana.

Applicant estimates that the cost of the proposed facilities would be $21,500,000 which would be financed initially through short-term loans and available cash with any necessary long-term financing to be arranged at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the

requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6263 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-168-000]

Valero Interstate Transmission Co.; Notice of Application

February 20, 1981.

Take notice that on January 30, 1981, Valero Interstate Transmission Company (Applicant), P.O. Box 1569, San Antonio, Texas 78295, filed in Docket No. CP81-168-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to El Paso Natural Gas Company (El Paso), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas sales contract dated January 28, 1981, Applicant proposes to sell to El Paso up to 25,000 Mcf of natural gas per day purchased by Applicant from Pennzoil Producing Company, Killam & Hurd, LTD, Aainoco Oil and Gas Company and others. It is asserted that such gas reserves are located in South Texas. Applicant would deliver the gas to Valero Transmission Company (Transmission) which would deliver the gas to El Paso at mutually agreeable points on El Paso's system, it is stated.

Applicant submits that it would install or cause to be installed the nonjurisdictional gathering facilities necessary to gather and measure the gas. It is asserted that Transmission would provide a transportation service for El Paso pursuant to Section 311 of the Natural Gas Policy Act of 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 13, 1981, file with the Federal Energy Regulatory Commission Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commision will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jusrisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6256 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-276-000]

Vermont Electric Power Company, Inc.; Filing

February 20, 1981.

The filing Company submits the following:

Take notice that on February 13, 1981, Vermont Electric Power Company, Inc. (VELCO) tendered for filing an Amendment to the following rate schedule:

Ontario Hydro Power and Transmission Contract dated November 15, 1979, between VELCO and the Village of Enosburg Falls Water and Light Department, Village of Hardwick Electric Department, Village of Ludlow Electric Department, Village of Morrisville Water and Light Department, Village of Stowe Water and Light Department, Village of Swanton and Washington Electric Cooperative, Inc. for the period November 15, 1979 through April 25, 1981.

The purpose of the Amendment is to change the termination date of the contract from December 2, 1980 to April 25, 1981. The Amendment became effective as of December 3, 1980. All other terms and conditions of the contract remain unchanged.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to interevene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 6267 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2244]

Washington Public Power Supply Commission; Application for Amendment of License

February 23, 1981.

Take notice that on December 9, 1980, Washington Public Power Supply System (WPPSS) filed an application to

amend its license for the constructed Packwood Lake Hydroelectric Project No. 2244, located on Lake Creek and Packwood Lake in Lewis County, Washington. Correspondence with WPPSS should be directed to: Mr. A. McDonald, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352. The application was filed pursuant to Article 40 of the license (Order Amending License, issued February 17, 1976) which required the Licensee to consult with various Federal and State agencies in order to study and prepare a mutually acceptable plan for establishment of a minimum pool level of Packwood Lake for optimum power output. In its application, WPPSS requests that it be permitted to lower the minimum level of the Packwood Lake from 2850.5 feet to 2849.0 feet during the winter drawdown (September 15 to April 30 of each year). WPPSS states that the requester operational modification would result in an additional 985,000 kWhs of energy output annually.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to their responsibilities and applicable statutes. No other formal request for comments will be made. Comments should be confined to substantive issues relevent to the issuance of an order amending project license. A copy of the application may be obtained directly from the applicant. If an agency does not file comment within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 1.8 or 1.10 (1979). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest, petition to intervene, or agency comments must be filed on or before April 3, 1981. The Commission's address is: 825 North Capitol Street, N.E. Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-6264 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-85-M

Office of Environment

Environmental Advisory Committee, Nuclear Energy Subcommittee; Change in Room Number

The meeting of the Nuclear Energy Subcommittee of the Environmental Advisory Committee will be held in Room 6E069, in lieu of room number 1G079 as announced in the February 13, 1981, issue of the **Federal Register** (46 FR 12266).

Issued at Washington, D.C. on February 19, 1981.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 81-6336 Filed 2-24-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 8G2079/T281; PH-FRC 1746-4]

EM Laboratories, Inc.; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A temporary tolerance has been extended for residues of the plant growth regulator methyl 2-chloro-9-hydroxyfluorene-9-carboxylate, methyl 9-hydroxyfluorene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate in or on cucumbers at 0.1 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 412E, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-577-7066).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of December 10, 1979 (44 CFR 70920) that a temporary tolerance had been established for residues of the plant growth regulator methyl 2-chloro-9-hydroxyfluorene-9-carboxylate, methyl 9-hydroxyfluorene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate in or on the raw agricultural commodity cucumbers at 0.1 part per million (ppm). This tolerance will expire March 19, 1981.

EM Laboratories, Inc., has requested an extension of the temporary tolerance to permit the continued marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit (21137-EUP-3) which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, 92 Stat. 819, (7 U.S.C. 136).

The scientific data reported and all other relevant material have been evaluated, and it has been determined that the temporary tolerance will protect the public health. Therefore, the temporary tolerance is extended on the condition that the experimental use permit and temporary tolerance be used with the following provisions:

1. The total amount of the pesticide to be used must not exceed the amount authorized in the experimental use permit.

2. EM Laboratories, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company will also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires March 19, 1982. Residues not in excess of this temporary tolerance remaining in or on cucumbers after the expiration date will not be considered actionable if the pesticide is legally applied during the term, and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561, (21 U.S.C. 346a (j))

Dated: January 22, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-4195 Filed 2-24-81; 8:45 am]

BILLING CODE 6560-32-M

[PP 5G1623/T263A; PH-FRL 1745-5]

Amitraz; Renewal of Temporary Tolerances; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued an amendment to a renewal of a temporary tolerances for residues of the insecticides amitraz (*N'*-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]-methyl]-*N*-methylmethanimidamide and its metabolites *N'*-(2,4-dimethylphenyl)-*N*-methylmethanimidamide and *N*-(2,4-dimethylphenyl)formamide to include meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.01 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 400, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7024).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of August 28, 1980 (45 CFR 57539) that temporary tolerances had been renewed for residues of the insecticide amitraz (*N'*-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]-methyl]-*N*-methylmethanimidamide and its metabolities *N'*-(2,4-dimethylphenyl)-*N*-methylmethanimidamide and *N*-(2,4-dimethylphenyl) formamide in or on the agricultural commodities grapefruits, lemons, oranges, and tangerines at 1.0 part per million (ppm).

Upjohn Co., Agricultural R&D, Kalamazoo, MI 49001 has submitted an amendment to the temporary tolerance to include the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.01 ppm.

The scientific data reported and all other relevant material were evaluated, and it has been determined that the amendment to the renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances are amended on the condition that the experimental use permit and the temporary tolerance be used with the following provisions:

1. The amount of the insecticide used must not exceed the amount authorized in the experimental use permit.

2. Upjohn Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

The temporary tolerances expire on July 17, 1981. Residues not in excess of 0.01 ppm in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if any such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561, (21 U.S.C. 136(j)))

Dated: January 22, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81–4190 Filed 2–24–81; 8:45 am]

BILLING CODE 6560–32–M

[OPP–180573; PH–FRL 1761–4

Delaware; Issuance of Specific Exemption for Permethrin in Mushroom Houses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Delaware Department of Agriculture (hereafter referred to as the "Applicant") for the use of permethrin to control adult sciarid flies in mushroom houses in Delaware. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on August 21, 1981.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7123).

SUPPLEMENTARY INFORMATION: The sciarid fly is a serious pest of mushroom in Delaware. The sciarid flies transmit mushroom diseases in addition to causing damage from larval feeding. The Applicant reports that the shift in marketing from processing to fresh by the Delaware mushroom industry makes the requirement for higher mushroom quality more vital.

According to the Applicant, pesticides registered for use on mushrooms are not providing effective control of the adult sciarid flies. Resistance is developing to some of the pesticides, phytotoxicity is a problem in some, and pyrethrins are generally not available and are expensive, the Applicant reports. A new product, Apex 5E, was registered on October 9, 1980, to control sciarid flies in mushroom houses. The Applicant indicates that since the product is so new, testing under Delaware conditions has not been performed. Without such testing, Delaware Agricultural Extension personnel cannot recommend its use and pesticide suppliers will not stock it. Data indicate that permethrin is effective in controlling sciarid fly populations. The Applicant estimates that without the use of permethrin, a 15-to-17 percent yield loss will occur, amounting to a 4,800 pound loss per double house per crop. This would amount to a $3,120 loss per double house per crop, assuming that mushrooms would be sold at $0.65 per pound.

The Applicant proposed to treat a maximum of 2.5 million square feet of mushroom houses with Pounce Mushroom Spraymist, an unregistered product. The product is to be applied as an aerosol with a mechanical fog applicator.

EPA has determined that residues of permethrin, per se, should not exceed 0.05 part per million (ppm) in or on mushrooms from the proposed use. This level has been judged adequate to protect the public health. The risk from applicator exposure is expected to be significantly reduced by the protective clothing and respirator requirements EPA has imposed.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 21, 1981, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The Applicant is responsible for ensuring that all provisions of this specific exemption are met. Reports of time, location, and extent of pesticide use are due during the course of the program; in addition, a final report summarizing the results of the program must be submitted by January 31, 1982.

2. The product Pounce Mushroom Spraymist, manufactured by the FMC Corp., may be used.

3. Pounce is to be applied with a mechanical fog applicator at a rate of 2 to 2.5 ounces of formulation in 30 ounces of water per double house (35,000 cubic feet).

4. A maximum of 20 applications may be made prior to pinning of first break.

5. Pounce may not be applied once pins begin to form.

6. Pounce may not be used when mushrooms are present.

7. Prior to application, all doors, windows, and ventilators should be closed. All entrances should be locked or barricaded, pilot lights turned off, warning signs posted, and precautions taken to prevent persons and animals from entering the area.

8. During treatment, a pesticide respirator, which has been jointly approved by the Mining Enforcement and Safety Administration (formerly the U.S. Bureau of Mines) and the National Institute of Occupational Safety and Health, must be worn.

9. Applicators must wear protective clothing and rubber gloves. They must wash thoroughly with soap and water after handling permethrin and before eating or smoking. They must remove contaminated clothing and wash it before reuse.

10. It is recommended that a closed system be used for mixing/loading operations of Pounce Mushroom Spraymist.

11. No applications may be made within 6 days before harvest.

12. Mushroom houses should be ventilated to remove fog after the treatment time has elapsed. Fans should be used in houses that do not have forced air circulation.

13. Permethrin is extremely toxic to fish and aquatic invertebrates. Care must be taken not to contaminate water by the cleaning of equipment or disposal of wastes or excess pesticides.

14. Applications will be made by or under the direct supervision of applicators certified for this category of pest control.

15. A maximum of 2.5 million square feet of production area may be treated.

16. Residues of permethrin, per se, are not expected to exceed 0.5 ppm in or on mushrooms. Mushrooms with residues of permethrin that do not exceed this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

17. Participants are to be notified of their obligation to report any adverse effects arising from the use of Pounce Mushroom Spraymist. The EPA must be immediately informed of any adverse effects resulting from this use.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: February 17, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-6302 Filed 2-24-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180563] PH-FRL 1761-6]

Oregon; Issuance of Specific Exemption for Paraquat in Peppermint Fields

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use either the bis (methyl sulfate) or the dichloride salt, both calculated as the cation of paraquat (1,1'-dimethyl-4,4'-bipyridinium ion) to control Italian ryegrass, common groundsel and other weeds on 15,000 acres of peppermint fields located in the Willamette Valley and other areas in southern central, and eastern Oregon. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767C), Office of Pesticide Programs, Envrionmental Protection Agency, Rm. 502C, CM#2, 1921 Jefferson Davis Highway, Arlington,VA 22202 (703-557-7123).

SUPPLEMENTARY INFORMATION: According to the applicant, the peppermint in western Oregon and in various other parts of the State is now grown under a non-tillage system as a cultural method to prevent the spread of *Verticillium* wilt. This has caused and extreme pressure from various kinds of weeds. The major weeds occurring during the dormant season of the peppermint are Italian ryegrass (*Lolium multiflorum*), common groundsel (*Senecio vulgaris*), and several other annual, bilennial, and perennial weed species. These weeds, the applicant stated, germinate in the fall, grow vigorously during the winter season, and overwhelm the emerging peppermint in the spring. Treatment to combat these weeds should be made while the peppermint is dormant.

Only three herbicides are presently reigistered for use on peppermint: terbacil, trifluralin, and diuron. According to the applicant, none of these is adequate to control pest weeds. Data submitted by the applicant indicated that paraquat seems to be the only effective herbicide which can be used in a pest management system which relies exclusively on cultural methods for mint disease control.

The Applicant proposed to use a paraquat formulation on a maximum of 15,000 acres of dormant peppermint located mainly in the Willamette Valley of western Oregon; some of this acreage is also located in southern, central, and eastern Oregon. A total of 11,250 pounds of the active ingredient will be required.

The Applicant estimated that, without the use of paraquat, Oregon peppermint growers could lose between $2.25 million and $6 million. Hand labor can be used for the removal of certain perennial and biennial weeds when in sparse stands, but the ryegrass and groundsel cannot be economically removed by hand. In addition to the short-term economic impact of these weeds, another concern is the accumulation of millions of weed seeds in the soil to cause future problems.

EPA has determined that no detectable residues (<0.05 part per million) of paraquat are expected to occur in mint oil from this use. There does not appear to be any potential irreversible hazard to the environment as a result of this short-term use of paraquat. The use of paraquat in peppermint fields will not significantly increase the amount of residues in the total diet of man or domestic animals.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until March 31, 1981, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Ortho Paraquat CL, EPA Reg. No. 239-2186, or Ortho Paraquat, EPA Reg. No. 239-1994, may be used at a dosage rate of from 1½ to 3 pints product per 20 to 50 gallons of water/acre. If the high dosage rate is used, only a single application may be made. Two applications may be made at the low dosage rate.

2. A maximum of 11,250 pounds active ingredient may be applied to the 15,000 acres of dormant peppermint fields located in the areas named above.

3. Applications may be made by either State-certified commercial or private applicators or persons under their direct supervision. Applications are restricted to ground equipment only.

4. Application rates and procedures will be recommended by qualified Oregon State University Research and Extension agents.

5. A residue level of paraquat not exceeding 0.05 part per million in mint oil has been judged adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

6. The fresh peppermint forage must be used only for the distillation of mint oil. The spent hay must not be fed to livestock.

7. All applicable directions, precautions, and restrictions on the EPA-registered label must be followed.

8. The EPA shall be immediately informed of any adverse effects resulting from the use of the paraquat products in connection with this exemption.

9. A full report summarizing the results of this program must be submitted to the EPA by the end of September, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: February 2, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-6301 Filed 2-24-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180510A; PH-FRL 1761-5]

Texas; Issuance of Specific Exemption for Fenvalerate on Cabbage

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Texas Department of Agriculture (hereafter referred to as the "Applicant") for the use of fenvalerate (Pydrin) to control *Heliothis* species (budworms) and the cabbage looper on a maximum of 15,000 acres of cabbage in Texas. The Applicant had initiated a crisis exemption for this use on September 3, 1980. Notification of this action appeared in the **Federal Register** of October 29, 1980 (45 FR 71681). The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on November 1, 1981.

FOR FURTHER INFORMATION CONTACT: Edward Gross, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 509C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7123).

SUPPLEMENTARY INFORMATION: The Applicant reported that this summer's heat and drought promoted heavy infestations of both the cabbage looper and budworms. Increased numbers, together with apparent development of resistance to registered pesticides, result in increased plant damage. According to the Applicant, these problems cause a need for increased culling and a lowering of grades of marketable produce. The Applicant states that insecticides such as methomyl, methamidophos, *Bacillus thuringiensis*, and acephate are providing control levels of only 65-80 percent at maximum dosage rates and number of treatments. According to the Applicant, at least $15 million will be lost by Texas cabbage growers without the use of fenvalerate.

EPA has determined that residues of fenvalerate in or on cabbage should not exceed 2 parts per million (ppm) from the proposed use. This level has been judged adequate to protect the public health. The proposed use is not expected to present an undue hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted permission to use the pesticide noted above until November 1, 1981, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Pydrin (EPA Reg. No. 201-401) may be used at a maximum dosage rate of 0.1 pound active ingredient (a.i.) per acre for control of cabbage loopers and 0.2 pound a.i. per acre for control of *Heliothis* spp.

2. Available data indicate that the 0.1 pound a.i. rate should provide as good a control of *Heliothis* spp. as the 0.2 pound a.i. rate in most situations. Therefore, in most instances the 0.1 pound a.i. rate should be recommended.

3. A maximum of 15,000 acres of cabbage may be treated. A maximum of 24,000 pounds a.i. may be used.

4. A maximum of eight applications are authorized.

5. A 7-day preharvest interval is imposed.

6. All applications must be made by or under the direct supervision of applicators State-certified for this category of pest control.

7. Treated fields may not be rotated to root crops for 12 months after the last application of fenvalerate. Treated fields may not be rotated to any other crop, except cotton, for 60 days after the last application of fenvalerate.

8. Fenvalerate will be applied by ground or air equipment using a minimum of 3 or 10 gallons of water per acre, respectively.

9. All applicable directions, restrictions, and precautions on the EPA-registered product label must be adhered to.

10. Fenvalerate may be applied only to cabbage fields when fields are to be harvested within 35 days and when infestations reach economic threshold levels.

11. It is recommended that fenvalerate not be applied any closer to fish-bearing freshwaters than 200 feet (at the 0.1 pound a.i. rate), and 300 feet (at the 0.2 pound a.i. rate), by ground and 750 feet (at the 0.1 pound a.i. rate) and 1,250 feet (at the 0.2 pound a.i. rate) by air. Applications closer than these may result in fish and/or other aquatic organism kills.

12. Participants are to be notified of their obligation to report any adverse effects on nontarget organisms arising from the use of Pydrin. The EPA must be immediately informed of any adverse effects resulting from the proposed use.

13. Precautions must be taken to avoid or minimize spray drift to nontarget areas. It is recommended that pesticide application be made when wind speeds are between 2 and 5 miles per hour. No pesticide applications are to be made when wind speeds exceed 10 miles per hour.

14. Fenvalerate is highly toxic to bees exposed to direct treatment or to residues on crops or weeds. It may not be applied or allowed to drift to weeds or crops in bloom if bees are actively visiting the treatment area. Protective information may be obtained from the Texas Cooperative Agricultural Extension Service.

15. Fenvalerate is extremely toxic to fish and aquatic invertebrates. It may not be applied directly to any body of water and drift reduction precautions must be observed. It may not be applied where excessive runoff is likely to occur. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes or excess pesticide.

16. Cabbage with residues of fenvalerate not exceeding 2 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

17. Cabbage trimmings from treated fields must not be fed to livestock.

18. The Application is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by May 1, 1982.

(Sec. 18 as amended 92 Stat. 891 (7 U.S.C. 136)

Dated: February 2, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-6305 Filed 2-24-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180558; PH-FRL 1761-3]

U.S. Department of Agriculture; Crisis Exemption for Methyl Bromide in Warehouses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that the Animal and Plant Health Inspection Service, U.S. Department of Agriculture (hereafter referred to an "USDA"), has availed itself of a crisis exemption for the use of methyl bromide as a fumigant in three New Jersey warehouses to control the khapra beetle *(Trogoderma granarium, Everts).*

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7123).

SUPPLEMENTARY INFORMATION: USDA notified the Administrator on November 7, 1980, that it had initiated a crisis exemption for the use of methyl bromide as a fumigant in three warehouses in New Jersey to eradicate the khapra beetle. USDA reported that there was insufficient time to request a specific exemption due to the urgency for immediate eradication treatments.

Khapra beetle is one of the world's most devastating pests of stored products. It was not known to be present in the United States, and USDA states that immediate eradication treatments were necessary to prevent spread and possilbe serious economic damage to stored grain and other stored products.

USDA reported that there are no registered pesticides readily available other than methyl bromide that will eradicate the khapra beetle. Methyl bromide is registered for khapra beetle use but at a lower rate than is necessary to eradicate the pest. Since two of the infested establishments were spice processing facilities and the other a processor of used bagging, the higher rate of treatment was required, USDA reported.

The two spice facilities were treated with methyl bromide in a 12-hour schedule at a rate of 6 pounds of methyl bromide per 1,000 cubic feet in one and 7½ pounds per 1,000 cubic feet in the other. A total of 25,700 pounds of methyl bromide was used at these sites. The used bagging facility was treated in a 24-hour schedule at a rate of 12 pounds of methyl bromide per 1,000 cubic feet, for a total of 15,000 pounds of methyl bromide.

Tolerances of 400 parts per million are established for inorganic bromide in spices. USDA reports that this tolerance level was not exceeded under the crisis exemption. The program was under the direction of USDA Plant Protection and Quarantine personnel. Protective masks were worn by participating personnel. The crisis period has ended.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: February 17, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-6303 Filed 2-24-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

National Industry Advisory Committee; Amateur Radio Services Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Amateur Radio Services Subcommittee of the National Industry Advisory Committee (NIAC) to be held Friday, March 27, 1981. The Subcommittee will meet at the Federal Communications Commission Annex Building, Room A–110, 1229 20th Street, N.W., Washington, D.C. at 10 a.m.

Purpose: To consider emergency communications matters.

Agenda: As follows:

Items:

1. Opening of meeting
   a. Statement by Chairman
   b. Introductions.
   c. Approval of summary minutes of the May 16, 1980 meeting
2. Presentation of Tacoma-based ARS emergency communications plans and Connecticut-based EBS/ARS interface plans—Subcommittee members involved in plans submitted
3. Reports on assigned activities:
   a. *Introduction to NIAC:* Mr. Neumann, FCC staff; Mr. Rentfrow, FCC Staff
   b. *Local Government Planning:* Mr. Bino, Mr. Estevez, Mr. Flinn
   c. *Broadcast Services:* Mr. Payne
   d. *Citizens Band:* Mr. Flinn
   e. *Red Cross and Salvation Army:* Mr. Estevez, Mr. Lindholm
   f. *Independent Traffic Nets:* Mr. Estevez, Mr. Lindholm
   g. *Radio Amateur Civil Emergency Service:* Mr. Obradovich
   h. *Military Affiliate Radio System:* Mr. Dunn, Mr. Hurd
4. Analysis of regulations restricting emission mode experimentation as related to emergency communications—Mr. Green, Mr. Imlay, Mr. Payne
5. Electromagnetic Pulse, Part II—Mr. Meserve
6. Non-RACES emergency drills—Mr. Imlay
7. Three Mile Island and emergency communications—Mr. Obradovich
8. Proposed plain English amateur radio rules (Part 97)—Mr. Imlay
9. ARS use of commercial satellites for emergency communications—Mr. Green
10. New business
11. Federal agency and public comments
12. Adjournment

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Executive Secretary, National Industry Advisory Committee, at FCC on (202) 632–7232.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-6307 Filed 2-24-81; 8:45 am]

BILLING CODE 6712-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00137; PH-FRL 1760-F]

FIFRA Scientific Advisory Panel Open Meeting

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule related notice.

SUMMARY: There will be a three-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to present decision options being considered by the agency to conclude the rebuttable presumption against registration (RPAR) on ethylene dibromide (EDB) and to discuss the prediction and evaluation of ground water contamination by pesticides. The meeting will be open to the public.

DATES: Wednesday, Thursday, and Friday, March 25, 26, and 27, 1981, from 9:00 a.m. to 5:00 p.m. daily.

ADDRESS: The meeting will be held at the Twin Bridges Marriott Hotel, 333 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, Jr., Acting Executive Secretary, FIFRA Scientific Advisory Panel (TS–766C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 803, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7560).

SUPPLEMENTARY INFORMATION: The agenda for this meeting is:

1. Prediction and evaluation of ground

water contamination by pesticides. (Wednesday morning, March 25.)

2. Presentation of the decision options being considered by the agency to conclude the RPAR on ethylene dibromide (EDB). (Wednesday afternoon, March 25, through Friday, March 27.)

3. Completion of any unfinished business from previous Panel meetings.

4. In addition, the agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Summaries of information relating to item 1 may be obtained from: David Severn, Hazard Evaluation Division (TS–769C), Rm. 815, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7347).

Copies of draft documents concerning item 2 may be obtained by contacting: Jeff Kempter, Special Pesticides Review Division (TS–791), Environmental Protection Agency, Rm. 709, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7451).

Any member of the public wishing to attend or submit a paper should contact Philip H. Gray, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons wishing to make oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than March 18, 1981.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is April 29–30, 1981.

(Sec. 25(d), as amended, 92 Stat. 819; (7 U.S.C. 136); Sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: February 18, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-6354 Filed 2-29-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 81-56, 81-57, 81-58, 81-59 and 81-60, File Nos. BPCT-790618KH, BPCT-79092IKE, BPCT-791113LD, BPCT-791130LC and BPCT-791130LD]

Anax Broadcasting Inc., et al.; Application for a Television Construction Permit

In re Applications of Anax Broadcasting Incorporated, Buffalo, New York (BC Docket No. 81–56, File No. BPCT–790618KH) and The Great Erie County Telecasting Corporation, Buffalo, New York (BC Docket No. 81–57, File No. BPCT–790921KE); Channel 49 Buffalo Television, Inc., Buffalo, New York (BC Docket No. 81–58, File No. BPCT–791113LD); Bison City Television 49 Limited Partnership, Buffalo, New York (BC Docket No. 81–59, File No. BPCT–791130LC) and Unific Broadcasting Company of New York, Buffalo, New York (BC Docket No. 81–60, File No. BPCT–791130LD) For a Television Construction Permit; hearing designation order designating applications for consolidated hearing on state issue.

Adopted: January 29, 1981.

Released: February 17, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Anax Broadcasting Incorporated (Anax), The Great Erie County Telecasting Corporation (Great Erie), Channel 49 Buffalo Television, Inc. (Channel 49 Buffalo), Bison City Television 49 Limited Partnership (Bison Partnership), and Unific Broadcasting Company of New York (Unific) for a new commercial television station to operate on Channel 49, Buffalo, New York.[1]

[1] The application of Great Erie contemplates operating subscription television (STV) over its proposed facilities. Its application for STV authorization (BSTV–790921KF) will not be consolidated for hearing in this proceeding. STV is essentially an entertainment format undistinguishable from other entertainment packages except that it is supported directly by viewers' subscriptions rather than by advertising revenues. The Commission has already demonstrated a reluctance to compare applicants on the basis of entertainment formats. *George E. Cameron Jr. Communications*, 71 F.C.C. 2d 460 (1979). Consequently, STV proposals will not be considered in otherwise routine hearings on applications for television construction permits; rather, only if Great Erie is determined to be the successful applicant for the construction permit, will its STV proposal be analyzed.

Anax Broadcasting Incorporated

2. It appears that Anax would require more than $1,100,000 to construct its proposed facility and to operate it for three months:

Equipment (downpayment)	$368,044
(three months)	93,851
Land	lease
Building	on hand
Legal, engineering, installation and other costs	100,000
Operating costs (three months)	600,000
Total	1,161,895

To meet this requirement, Anax intends to rely on a $1,500,000 (net $1,445,000) line of credit from the Liberty National Bank and Trust Company in Buffalo. At no place in its application does Anax set out the cost of the land lease; however, in view of the fact that it would be improbable that Anax's cost to lease the land would exceed $280,000 (the amount available to the applicant after it meets its other expenses), we will not specify an issue here as to Anax's availablility of funds.

3. Anax fails to indicate who conducted the surveys of both community leaders and the general public, as required by Questions and Answers 11(a) and 11(b) of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650 (1971). It also fails to indicate when the surveys were taken, as required by Question and Answer 15 of the *Primer*. Accordingly, appropriate issues will be specified to determine whether the applicant conducted its community leader and general public surveys in compliance with the *Primer*.

4. Paul A. Willax, the Chairman of the Board and 31.5% owner of Anax, also is Director of, and has indirect ownership in, Algonquin Broadcasting corporation (Algonquin), the licensee of WBEN (AM) and WBEN–FM in Buffalo.[2] Section 73.636(a) of the Commission's Rules (47 C.F.R. 73.636(a)) sets out a policy against granting a television construction permit to parties who directly or indirectly own, operate, or control radio stations licensed to the same community as their proposed television station. Willax states that he will terminate all of his interest in Algonquin prior to Anax's filing of an application for license. Willax must demonstrate such termination before Anax commences operation.

5. Alfred E. Anscombe, the President and 31.5% owner of Anax, also is President and 15% owner of Ken-Ton Cablevision, Inc., Amherst, New York, a Buffalo suburb. Section 76.501(a)(2) of

[2] Willax is Director and 40% owner of Kazoo Co., Inc., which is the 100% owner of Oscar Willax & Sons, Inc., which in turn owns 4% of Algonquin.

the Commission's cross-ownership rules prohibits the common ownership of a cable television system and of a television station whose predicted Grade B contour, as here, overlaps part of the cable system service area. Anscombe status that he will terminate all of his interest in Ken-Ton prior to Anax's filing of an application for license. Anscombe must demonstrate such termination before Anax commences operation.

6. In the event of a grant of Anax's application, the construction permit will be conditioned to require Anax to demonstrate that its proposed tower would not alter the radiation patterns of nearby Station WBEN(AM).

The Great Erie County Telecasting Corporation

7. Since we have not received a determination from the Federal Aviation Administration that Great Erie's proposed tower height and location would not constitute a hazard to air navigation, an issue regarding this matter is required.

8. In the event of a grant of Great Erie's application, the construction permit will be conditioned to require Great Erie to demonstrate that its proposed tower would not alter the radiation patterns of nearby Station WBEN(AM).

Channel 49 Buffalo Television [3]

9. Since we have not received a determination from the Federal Aviation Administration that Channel 49 Buffalo's proposed tower height and location would not consititute a hazard to air navigation, an issue regarding this matter is required.

10. Channel 49 Buffalo proposes to operate from a site located within 250 miles of the Canadian border with maximum visual effective radiated power (ERP) of 5000 kilowatts. The proposal poses no interference threat to United States television stations; however, it does contravene an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes,* T.I.A.S. 2594 (1952). In the event of a grant of Channel 40 Buffalo's application, the construction permit shall contain a condition precluding station operation with maximum visual ERP in excess of 1000 kilowatts, absent Canadian consent. *South Bend Tribune,* 8 R.R. 2d 416 (1966).

Bison City Television 49 Limited Partnership

11. Bison Partnership in 28 percent owned by general partner Bison City Television 49, Inc. (Bison, Inc.); 1 percent owned by limited partner Jack Understein, Chartered, and 71 percent owned by other unnamed limited partners. FCC Form 301, Section II, Tables I and II require that if an applicant is a partnership, it provide information as to each general or limited partner as to name and address, date and place of birth, nature of partnership interest, percent of ownership interest, occupations or businesses engaged in during the past five years, and relationship to or interest in such concerns. The applicant has failed to identify the owner(s) of Jack Understein, Chartered and Bison Partnership's other limited partners and to provide such information on them. Consequently, we cannot determine that Bison Partnership is legally qualified to be a Commission licensee, and an appropriate issue will be specified.

12. Analysis of the financial data submitted by Bison Partnership indicates that $1,793,281 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment (downpayment)	$512,500
(three months)	134,531
Other	391,000
Operating cost, including land and building rental (three months)	755,250
Total	1,793,281

To meet these expenses, Bison Partnership intends to rely on $12,648 in existing capital, $3,430,000 in anticipated partnership contributions,[4] and loans from the West Side National Bank and City Bank, both of St. Louis, Missouri. Other than Jack Understein, Chartered, for $100, no partner has committed itself to the contribution of any funds, and accordingly, Bison Partnership will be credited with the availability of only the $100 in commitments. Further, both bank letters are merely promises to consider a loan of funds. Neither meets the requirements of FCC Form 301, Section III, Question 4e, in that they fail to indicate willingness to provide loans for stated amounts with stated interest rate, collateral, and other terms. Consequently, Bison Partnership cannot depend on the avilability of any capital from the banks. In that the applicant has demonstrated the availability of only $12,748, an appropriate financial issue will be specified.

Unific Broadcasting Company of New York

13. Analysis of the financial data submitted by Unific indicates that $956,438 will be required to construct its proposed station and to operate it for three months, itemized as follow:

Equipment (downpayment)	$545,000
(three months)	143,063
Building	25,000
Other	96,500
Operating costs, including studio and land rental (three months)	146,875
Total	956,438

To meet these expenses, Unific intends to rely on $3,000,000 in loans from several small business investment corporations, a $2,000,000 line of credit from the manufacutrers and Traders Trust Company (Manufacturers) in Lancaster, New York, and $2,000 in cash. the only small business investment corporation to show a willingness to loan unific any capital (150,000) is the King Small Business Investment Corporation (King). Both King's loan and manufacturers' letter of credit would be contingent on the grant of STV authorization to Unific. At this point, the applicant has not filed an STV application, and even if one were filed, Unific cannot depend on its being granted (see Footnote 1). King's loan is further conditioned on unific's Articles of Incorporation indicating 50 percent minority or Vietnam veteran ownership; however the Articles do not contain the required ownership provisions. Consequently, Unific has not provided

[3] Channel 49 Buffalo is 49 percent owned by Julian S. Smith and 39.1 percent owned by Commercial Radio Institute, inc. (CRI). Julian Smith also owns stock in CRI as do his brother Henry and sons Fred, Robert, Duncan, and David. CRI has ownership interest in:

WPTT-TV, Pittsburg, Pennsylvania
WBFF-TV, Baltimore, Maryland
Channel 23, Columbus, Ohio (grant being appealed)
Channel 38, St. Peterburg, Flordia (application)
Channel 59, Indianapolis, Indiana (application)
Channel 61, Wilmington, Delaware (application)
Channel 61, Hartford, Connecticut (application)

In addition, David Smith owns 33 percent of Comark Television, Inc., the applicant for television stations on:

Channel 26, Daytona Beach, Florida
Channel 38, New Orleans, Lousiana
Channel 18, San Juan, Puerto Rico
Channel 51, Portland, Maine
Channel 62, Syracuse, New York

Section 73.636(a) (2) of the Commission's Rules limits a party to direct or indirect interest in no more than seven television stations.

[4] See the following table:

Bison, Inc. (Apparently, Bison, Inc. has already contributed a further $50,000 for start-up expenses, $12,648 of which remains in the form of existing capital)	$50,000
Class A limited partners	1,800,000
Class B limited partners	1,250,000
Class C limited partners	30,000
Interest income on partners' promissory notes	300,000
Total	3,430,000

assurance of the availability of funds from King or Manufacturers. Finally, although the applicant's most recent balance sheet demonstrates $2000 in cash, it also indicates $35,500 in liabilities (loans payable). Because Unific has not differentiated between current and long-term liabilities, the entire $35,500 will be considered current and payalbe during the next year. Absent a more complete balance sheet, we cannot determine that Unific has net liquid assets to provide any capital for the proposed station. Accordingly, an appropriate financial issue will be specified.

14. In the event of a grant of Unific's application, the construction permit will be conditioned to require Unific to demonstrate that its proposed tower would not alter the radiation patterns of nearby station WBEN(AM).

Conclusion and Order

15. Since the applications are mutually exclusive, the commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

16. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Anax's application:

(a) whether the applicant has complied with the provisions of Questions and Answers 11(a), 11(b), and 15 of the *Primer;*

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Great Erie would constitute a hazard to air navigation.

3. To determine whether there is a reasonable possibility that the tower height and location proposed by Channel 49 Buffalo would constitute a hazard to air navigation.

4. To determine the names of, and requisite information as to, each limited partner of Bison Partnership and whether, in light of the evidence adduced, the applicant is legally qualified.

5. To determine, with respect to Bison Partnership's financial showing:

(a) whether the applicant has an additional $1,780,533 available for construction and three month operating costs; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

6. To determine, with respect to Unific's financial showing:

(a) whether the applicant has $956,438 available for construction and three month operating costs; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

7. To determine which of the proposals would, on a comparative basis, best serve the public interest.

8. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

17. It is further ordered, That the Federal Aviation Administration is made a party respondent in respect to Issues 2 and 3, above.

18. It is further ordered, That in the event of a grant of the application of Anax, Great Erie, or Unific, the construction permit shall contain the following condition:

In order to satisfactorily demonstrate that radiation patterns have not been changed because of the construction of the antenna structure, prior to the commencement of program tests, the permittee shall file with the Commission sufficient field intensity measurements of Station WBEN(AM), 930 kHz, Buffalo, New York, made both before the commencement of construction and after its completion. Minimum required measurements shall include at least ten consecutive points, including the measured field intensitiy at the monitoring point locations for each of the radials included in the last complete proofs of performance on file with the Commission. Measurement shall be made for both directional and non-directional modes of operation. These measurements, together with their ratios (DA/NDA) shall be submitted in tabulated form. Also, measurement data shall be certified by all parties involved before submission to the Commission. The engineer selected by the permittee to make the measurements shall be acceptable to all parties, and the permittee shall bear the cost both of making the measurements and of taking any corrective measures necessary to restore the patterns to the conditions in existence prior to this construction. Further, the permittee shall be responsible for maintenance and repair of any detuning circuits installed on the antenna supporting structure of the proposed television tower which are necessary to restore the radiation patterns to WBEN(AM).

19. It is further ordered, That, in the event of a grant of Anax's application, the construction permit shall contain the additional condition:

Prior to the commencement of operation, Paul A. Willax shall certify to the Commission that he has severed all interest in or connection with Algonquin broad casting Corporation, and Alfred E. Anscombe shall certify to the Commission that he has severed all interest in or connection with Ken-Ton Cablevision, Inc.

20. It is further ordered, That, in the event of a grant of Channel 49 Buffalo's application, the construction permit shall contain the following condition:

1. Type acceptance of the transmitter shall be obtained prior to the commencement of program tests.

2. Operation with maximum visual effective radiated power in excess of 30.0 dBk (1000kW) is subject to consent by Canada.

21. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules in person or by attorney within 20 days of the mailing of this Order, file with Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

22. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communication Acts of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

By **Larry D. Eads,**

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-6317 Filed 2-24-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81-79 and 81-80; File Nos. BPH-790831AH and BPH-800107AX]

Associated Investors, Inc, et al.; Applications for a Construction Permit

In re Applications of Associated Investors, Inc., Deadwood, South Dakota (BC Docket No. 81-79, File No. BPH-790831AH), Req: 95.1 MHz, Channel 236, 100 kW (H&V), 1,707 feet; Flatau Broadcasting Company, Inc., Deadwood, South Dakota (BC Docket No. 81-80, File No. BPH-800107AX), Req: 95.1 MHz, Channel 236, 100 kW (H&V), 1,486 feet. For a Construction Permit for a New FM Station. Hearing designation order designating applications for consolidated hearing on stated issues.

Adopted: February 4, 1981.

Released: February 19, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned mutually exclusive applications of Associated Investors, Inc. (Associated) and Flatau Broadcasting Company, Inc.

(Flatau) for a construction permit for a new FM station at Deadwood, South Dakota.

2. *Associated.* Analysis of the financial data submitted by Associated reveals that $157,141 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$103,746
Miscellaneous	8,500
Operating costs (3 months)	44,895
Total	$157,141

To meet this requirement, Associated plans to rely upon a bank loan of $120,000, $30,000 in new capital from principal Houston Haugo, $5,000 in new capital from principal R. Kendall Mills, and $389 in cash. Associated has failed, however, to include a copy of the bank's $120,000 loan agreement. Also, since we do not know of the bank's proposed terms of repayment, Associated may have to show additional funding available to meet the expense of repayment of interest and/or principal during the first five months after it receives a construction permit. The applicant has therefore shown only $35,389 available to meet a requirement of at least $157,141. Accordingly, a financial issue will be specified.

3. Associated and Flatau have not provided us with current FAA clearances. Accordingly, an appropriate issue will be specified.

4. *Other issues.* We sent letters to both applicants upon determining that both sites would not provide clear line-of-sight paths to parts of Deadwood, as required by Section 73.315(b) of our Rules. Associated responded by stating that its proposed site was the best available due to the mountainous area surrounding the proposed city of license. Associated also claimed that only 3.58% of the city's area and 7.26% of its population would receive a degradation of signal due to shadowing. Flatau also responded by claiming that its proposed site provided the best coverage possible to Deadwood, but did not specifically discuss what percentage of the city's area and population would receive loss of signal due to shadowing. In order to determine whether both applicants' proposed transmitter sites are the best available, an appropriate issue will be specified.

5. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

6. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Associated Investors, Inc.:

(a) the source and availability of additional funds over and above the $35,389 indicated; and

(b) in light of the evidence adduced pursuant to (a) above, whether the applicant is financially qualified to construct and operate the proposed station.

2. To determine whether Associated's proposed transmitter site complies with Section 73.315 of the Rules and, if not, whether circumstances exist which warrant a waiver of that Rule.

3. To determine whether there is a reasonable possibility that the tower heights and locations proposed by the respective applicants would constitute hazards to air navigation.

4. To determine whether Flatau Broadcasting Company, Inc.'s proposed transmitter site complies with Section 73.315 of the Rules and, if not, whether circumstances exist which warrant a waiver of that Rule.

5. To determine which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

8. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-6315 Filed 2-24-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81-77 and 81-78; File No. BMPED-790719AB]

Catholic University of Puerto Rico Service Association et al.; Application for a Construction Permit

In re Applications of Catholic University of Puerto Rico Service Association, Ponce, Puerto Rico (BC Docket No. 81-77, File No. BPED-790517AF) and Req: 88.9 MHz, channel 205, 10.8 kW (H&V), 2,914 feet for a Construction Permit for a New FM Station; Community Educational Group, Corp. (WJDZ) Levittown, Puerto Rico, (BC Docket No. 81-78; File No. BMPED-790719AB); Has: 88.9 MHz, Channel 205, .01 kW (H&V), 100 feet; Reg: 88.9 MHz, Channel 205, 3.0 kW (H&V), 1,765 feet, for a Construction Permit for a Modification of Facilities. Hearing designation order designating applications for consolidated hearing on stated issues.

Adopted: February 4, 1981.

Released: February 24, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (i) the above-captioned mutually exclusive applications of Catholic University of Puerto Rico Service Association (Catholic University) and Community Educational Group Corp. (WJDZ), and (ii) a motion to dismiss Catholic University's application filed by WJDZ.[1]

[1] Pursuant to the Commission's *Report and Order* in re *Revised Procedures for the Processing of Contested Broadcast Applications; Amendments of Part 1 of the Commission's Rules*, 72 FCC 2d 202, 45 RR 2d 1220 (1979), which directed the deletion of all issue pleadings in pending cases, the matters sought to be raised by CEGC in its motion have not been considered in this Order. Accordingly, an opportunity to raise any allegations contained in the motion will be afforded the parties post designation, pursuant to Section 1.229. An informal objection to the grant of Catholic University's application, filed by Ponce Broadcasting Corporation, licensee of WLEO-WZAR, Ponce, Puerto Rico on August 28, 1979 was withdrawn by them on August 15, 1980.

2. *WJDC.* WDJZ has failed to comply with the requirements of *Ascertainment of Community Problems by Noncommercial Educational Broadcast Applicants Permittees and Licensees,* 41 F.R. 12424, published March 25, 1976. Since CEGC's proposal will encompass an area greater than fifty percent of the area within its presently authorized 1mV/m contour, it must ascertain problems and needs in the gain area. From the information before us it appears that WDJZ has failed to do so. Accordingly, an ascertainment issue will be specified.

3. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

4. Neither applicant has indicated whether an attempt has been made to negotiate a share-time arrangement. Therefore, an issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective use of the frequency and thus better serve the public interest. *Granfalloon Denver Educational Broadcasting, Inc.,* 43 F.R. 49560, published October 24, 1978. In the event that this issue is resolved in the affirmative, an issue will also be specified to determine the nature of such an arrangement. It should be noted that our action specifying a share-time issue is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement between themselves.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, It is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by WJDZ to ascertain the community needs and problems of the gain area to be served.

2. To determine the number of other reserved channel educational FM services available in the proposed WJDZ gain area and in the service area proposed by Catholic University and the areas and populations served thereby.

3. To determine, in the light of Section 307(b) of the Communcations Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice between applications should not be based solely on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall educational operation and objectives of the respective applicants, or whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

5. To determine whether a sharetime arrangement between the applicants would result in the most effective use of the channel and thus better serve the public interest, and, if so, the terms and conditions thereof.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That, in the event of a grant of the applicantion of Catholic University, the construction permit shall contain the condition consented to in the University's October 10, 1980 letter to the Commission. Accordingly, the petition to deny filed by the Department of Education of Puerto Rico IS DISMISSED as moot.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.
Richard, J. Shiben,
Chief Broadcast Bureau.
By **Larry D. Eads,**
Acting Chief Broadcast Facilities Division.

[FR Doc. 81-6317 Filed 2-24-81; 8:45 am]
BILLING CODE 6718-01-M

[Report No. B-11]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: February 13, 1981.
Cut off Date: March 30, 1981.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. Because the applications listed in the attached appendix are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with the applications listed in the attached appendix will be accepted for filing.

Petitions to deny the applications listed in the attached appendix and minor amendments thereto must be on file with the Commission not later than the close of business on March 30, 1981. Any application previously accepted for filing and in conflict with the applications listed in the attached appendix may also be amended as a matter of right not later than the close of business on March 30, 1981. Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Commission's Rules.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

BPH-801031AO (new), Redlands, California. GC &C Enterprises. Req: 96.7 MHz; channel No.244A. ERP: 3 kW; HAAT: 300 ft. (Mutually exclusive with renewal of KCAL-FM.)

BPH-801103AM (new), Los Angeles, California, Coronado B/cting of Southern Ca., Inc. Req: 99.5 MHz; channel No. 258B. ERP: 100 kW; HAAT: 240 ft. (Mutually exclusive with renewal of KHOF.)

BPH-801107AF (new), Martinez, Georgia. CSRA Broadcasters, Inc. Req: 94.3 MHz; channel No. 232A. ERP: 3 kW; HAAT: 305 ft.

[FR doc. 81-6319 Filed 2-24-81; 8:45 am]
BILLING CODE 6712-01-M

[PR Docket No. 81-66]

Gary W. Kerr; Designating Applications for Consolidated Hearing on Stated Issues

Designation Order

Adopted: February 13, 1981.
Released: February 18, 1981.

The Chief, Private Radio Bureau, has under considertion the application of

Gray W. Kerr, 1511 N. Carlton, Stockton, California 95203, dated July 31, 1980, to renew the Amateur radio station (WAJIY) and General Class Amateur radio operator licenses issued to him on January 13, 1976, for a five year term.[1]

1. Information before the Commission indicates that at various times during August, 1980, including August 6, 7, 8 and 10, Amateur radio station WA6JIY was operated to cause intentional interference to other Amateur radio stations, in wilful and repeated violation of Section 97.125 of the Commission's Amateur Rules. That section provides that no licensed operator shall wilfully or maliciously interfere with or cause interference to any radio communication or signal.

2. Information before the Commission also indicates that at various times during August, 1980, including August 6, 7, 8 and 10, station WA6JIY made radio transmissions in wilful and repeated violation of Section 97.113 (broadcasting prohibited) of the Rules. Furthermore, by apparently interfering with the communications of other stations through his radio testing schemes, Kerr violated Section 97.78 of the Rules.

3. The apparent violations of August 6, 7, 8 and 10, were the subject of an Official Notice of Violations mailed to Kerr on September 3, 1980.

4. Section 309(e) of the Communications Act of 1934, as amended, requires that the Commission designate an application for hearing where it cannot find that grant of the application would serve the public interest, convenience and necessity. The radio operation described above precludes the Commission from making that determination without a hearing.

5. Accordingly, it is ordered, That Kerr's application for renewal of his Amateur radio station license (WA6JIY) and his General Class Amateur radio operator license is designated for hearing upon the following issues:

(a) To determine whether there were radio transmissions by radio Station WA6JIY on August 6, 7, 8 and 10, 1980, or other dates in August 1980, in wilful and repeated violation of Sections 97.78, 97.113 and/or 97.125 of the Commission's Amateur Radio Service Rules.

(b) To determine in light of the above, whether the grant of the application would serve the public interest, convenience and necessity.

6. It is further ordered, That if Kerr wants a hearing on this matter, he must file a written request for a hearing within 30 days.[2] If a hearing is requested, the time, place, and Presiding Judge will be specified by subsequent Order. If Kerr waives his right to a hearing, his application will be dismissed with prejudice.

7. It is further ordered, That copies of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to Kerr at his address of record (as shown in the caption).

Chief, Private Radio Bureau.

W. Riley Hollingsworth,

Acting Chief, Compliance Division.

[FR Doc. 81-6318 Filed 2-24-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 81-74, 81-75 and 81-76; File Nos. 49-CM-P-80, 1276-CM-P-80 and 3292-CM-P-80]

Microband Corporation of America, et al.; Applications for Construction Permits

In re Applications of Microband Corporation of America. For Construction Permit in the Multipoint Distribution Service for a New Station at Cheyenne, Wyoming (CC Docket No. 81-74, File No. 49-CM-P-80) and Tekkom, Inc. For Construction Permit in the Multipoint Distribution Service for a New Station at Laramie, Wyoming (CC Docket No. 81-75, File No. 1276-CM-P-80); Telecommunications Systems, Inc. For Construction Permit in the Multipoint Distribution Service for a New Station at Cheyenne, Wyoming (CC Docket No. 81-76, File No. 3292-CM-P-80). Memorandum opinion and order designating applications for consolidated hearing on stated issues.

Adopted: February 2, 1981.

Released: February 12, 1981.

By the Deputy Chief, Common Carrier Bureau.

1. The Commission has before it the above-referenced application of Microband Corporation of America, filed on October 2, 1979 (accepted on Public Notice of October 29, 1979); the application of Tekkom, Inc., filed on December 26, 1979 (accepted on Public Notice of January 8, 1980) and the application of Telecommunications Systems, Inc., filed on December 27, 1979 (accepted on Public Notice of January 22, 1980). These applications are for a construction permit in the Multipoint Distribution Service and they propose operations on Channel 1 in the Cheyenne/Laramie, Wyoming area. The applications are therefore mutually exclusive under present procedures and require comparative consideration. There are no petitions to deny or objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 CFR 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent order, to determine on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Microband Corporation of America, Tekkom, Inc., Telecommunications Systems, Inc. and the Deputy Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules.

Thomas J. Casey,

Deputy Chief, Operations Common Carrier Bureau.

[FR Doc. 81-6313 Filed 2-24-81; 8:45 am]

BILLING CODE 6712-01-M

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[1] Pursuant to Section 1.926(c) of the Rules, Kerr has continuing operating authority pending a determination of whether his renewel application should be granted or denied.

[2] The attached form should be used to request or waive hearing. It should be completed and mailed to the Federal Communications Commission, Washington, D.C. 20554, in the enclosed envelope.

[1] Consideration of these factors shall be in light of the Commission's discussion in *Applications of Frank K. Spain*, 77 FCC 2d 20 (1980).

[CC Docket Nos. 81-84, 81-85, 81-86, and 81-87; File Nos. 21249-CD-P(3)-80, 22513-CD-P-(2)-80, 22037-CD-P-(2)-80, 22038-CD-P-(2)-80]

Mobile Phone of Texas, Inc., et al.; Applications for Construction Permits

In re Applications of Mobile Phone of Texas, Inc.; For a construction permit to add frequencies 454.025, 454.075, and 454.325 MHz in the Domestic Public Land Mobile Radio Service (DPLMRS) for Station KLF477 near Graham, Texas (CC Docket No. 81-84, File No. 21249-CD-P-(3)-80) and For a construction permit to establish a new two-way station on frequencies 454.175 and 454.300 MHz near Olney, Texas in the DPLMRS (CC Docket No. 81-81-85, File No. 22513-CD-P-(2)-80; Danny Roy Boyer d/b/a Central Mobilfone; For a construction permit to establish a new two-way station on frequencies 454.025 and 454.325 MHz in Jacksboro, Texas in the DPLMRS (CC Docket No. 81-86, File No. 22037-CD-P-(2)-80); and Jim Bob Measures d/b/a Radiofone; For a construction permit to establish a new two-way station on frequencies 454.075 and 454.175 MHz at Graham, Texas in the DPLMRS (CC Docket No. 81-87, File No. 22038-CD-P-(2)-80); Memorandum opinion and order designating applications for consolidated hearing on stated issues.

Adopted: February 3, 1981.

Released: February 23, 1981.

By the Common Carrier Bureau.

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority, are the above-captioned applications of Jim Bob Meaures d/b/a Radiofone (Radiofone), Mobile Phone of Texas, Inc. (Mobile Phone), and Danny Roy Boyer d/b/a Central Mobilfone (Central Mobilfone). Mobile Phone's requests for frequency 454.075 MHZ in File No. 21249-CD-P-(3)-80 and frequency 454.175 MHz in File No. 22513-CD-P-(2)-80 are electrically mutually exclusive with Radiofone's requests for these frequencies, and its requests for frequencies 454.025 and 454.325 MHz are electrically mutually exclusive with central Mobilfone's proposals. There were no mutually exclusive applications or protests filed against Mobile Phone's request for frequency 454.300 MHz. Consequently, we will grant Mobile Phone's request for frequency 454.300 MHz and we will designate the remaining applications, including Mobile Phone's request for frequency 454.175 MHz, for comparative hearing to determine which applicants will better serve the public interest.

2. In view of the foregoing, pursuant to Section 309 of the Communications Act of 1934, as amended,[1] we find these applicants to be qualified to construct and operate the proposed facilities. We further find that a grant of the request of Mobile Phone to operate on frequency 454.300 MHz will serve the public interest, convenience, and necessity. Accordingly, it is ordered, That the application of Mobile Phone of Texas, Inc., File No. 22513-CD-P-(2)-80, is granted in part, to the extent that the request for a construction permit to operate on frequency 454.300 MHz is granted, and that the request in the application of Mobile Phone of Texas, Inc. for a construction permit to operate on frequency 454.175 MHz, and the applications of Mobile Phone of Texas, Inc., File No. 21249-CD-P-(3)-80, Jim Bob Measures d/b/a Radiofone, File No. 22038-CD-P-(2)-80, and Danny Roy Boyer d/b/a Central Mobilfone, File No. 22037-CD-P-(2)-80, are designated for hearing in a consolidated proceeding upon the following issues:

(a) to determine on a comparative basis,[2] the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) to determine on a comparative basis, the areas and populations that each applicant will serve within the prospective 39 dBu contours, based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[3] and to determine and compare the need for the proposed services in said areas; and

(c) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

3. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

4. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to Section 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this *Memorandum Opinion and Order.*

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Thomas J. Casey,

Deputy Chief/Operations, Common Carrier Bureau.

[FR Doc. 81-6312 Filed 2-24-81; 8:45 am]

BILLING CODE 6712-01-M

[1] 47 U.S.C. § 309.

[2] The past performance of the applicants may be considered.

[3] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450 MHz band. Propagation data set forth in Section 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding.

[CC Docket Nos. 81-90, 81-91; File Nos. 22126-CD-P-80 and 22597-CD-P-80]

Mobile Phone of Texas, Inc., et al., Applications for Construction Permits

In re Applications of Mobile Phone of Texas, Inc. For construction permit for new one-way station on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service near Mineral Wells, Texas, (CC Docket No. 81-90 File No. 22126-CD-P-80) and Danny Ray Boyer d/b/a Central Mobilfone For construction permit for new one-way station on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service near Mineral Wells, Texas, (CC Docket No. 81-91 File No. 22597-CD-P-80) Memorandum Opinion And Order designating applications for consolidated hearing on stated issues.

Adopted: February 18, 1981.

Released: February 23, 1981.

By the Common Carrier Bureau.

1. Presently before the Chief, Mobile Services Division pursuant to delegated authority, are the captioned applications of Mobile Phone of Texas, Inc., and Danny Ray Boyer d/b/a Central Mobilfone. These applications are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. We find the applicants to be otherwise qualified.

2. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Mobile Phone of Texas, Inc., File No. 22126-CD-P-80 and Danny Ray Boyer d/b/a Central Mobilfone, File No. 22597-CD-P-80, are designated for hearing in a consolidated proceeding upon the following issues:

(a) to determine on a comparative basis: the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilties pertaining thereto;

(b) to determine on a comparative basis, the areas and populations that each applicant will serve within the prospective 43 dBu contours, based upon the standards set forth in Section 22.504(a) of the Commission's

Rules,[1] and to determine and compare the need for the proposed services in said areas; and

(c) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

3. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

4. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to Section 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Roberta Cook,

Deputy Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 81-6308 Filed 2-24-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 81-68 and 81-69; File Nos. 21971-CD-P-(2)-80 and 21506-CD-P-(2)-80]

Mobile Phone of Texas, Inc., et al.; Applications for Construction Permits

In re Applications of Mobile Phone of Texas, Inc. For construction permit for additional frequencies on 454.100 and 454.200 MHz for Station KLB802 in the Domestic Public Land Mobile Radio Service at Jacksboro, Texas, (CC Docket No. 81-68 File No. 21971-CD-P-(2)-80) and Jim Bob Measures d/b/a Radiofone. For construction permit for new two-way station on 454.100 and 454.200 MHz in the Domestic Public Land Mobile Radio Service at Agnes, Texas, (CC Docket No. 81-69 File No. 21506-CD-P-(2)-80); Memorandum Opinion and Order designating applications for consolidated hearing on stated issues.

Adopted: February 5, 1981.

Released February 17, 1981.

By the Common Carrier Bureau.

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority, are the captioned applications of Mobile Phone of Texas, Inc. (Mobile Phone) and Jim Bob Measures d/b/a Radiofone (Radiofone). These applications are electrically mutually exclusive;[1] therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. We find the applicants to be otherwise qualified.

2. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Mobile Phone of Texas, Inc, File No. 21971-CD-P-(2)-80, and Jim Bob Measures d/b/a Radiofone, File No. 21506-CD-P-(2)-80, are designated for hearing in a consolidated proceeding upon the following issues:

(a) to determine on a comparative basis, the nature and extent of service proposed buy each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) to determine on a comparative basis, the areas and populations that each applicant will serve within the prospective 39 dBu contours, based upon the standards set forth in section 22.504(a) of the Commission's Rules,[2] and to determine and compare the need for the proposed services in said areas; and

(c) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

3. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsquent Order.

4. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the commission pursuant to Section 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Joseph A. Marino,

Acting Chief, Mobile Services Division.

[FR Doc. 81-6309 Filed 2-24-81; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. CC 81-67 and File Nos. 20186-CDP-6-79 and 21791-CD-P-4-79]

Mobile Telephone, Inc.; for an Additional Location for Two-Way Station

In re Application of Mobile Telephone, Inc. For an additional location for two-way Station KOE252 to operate on presently authorized channels 454.125 MHz, 454.225 MHz, 454.275 MHz, 454.300 MHz, 454.325 MHs and 454.350 MHz, in the Domestic Public Land Mobile Radio Service (DPLMRS), at Pine Meadow Peak, (near Coalville), Utah (Docket No. CC 81-67 File No.20186-CD-P-6-79) and for an additional location for two-way Station KOE252 to operate on presently assigned channels 152.09 MHz and 152.12 MHz, in the DPLMRS, at Pine Meadow Peak (near Coalville), Utah (File No.21791-CD-P-4-79); Memorandum opinion and order designating application for hearing on stated issues.

Adopted February 12, 1981.

Released: February 23, 1981.

By the Common Carrier Bureau.

1. Presently before the Chief, Common Carrier Bureau (the Bureau), acting pursuant to delegated authority, are the captioned applications of Mobile Telephone, Inc. (Mobile). A petition to deny each application was filed by David R. Williams d/b/a Industrial Communications (Industrial). Responsive pleadings have been filed

2. The following issues have been raised for our consideration:

(a) whether the applicant has adequately demonstrated need for its proposed facilities;

(b) whether the applicant misrepresented the status of its state certification;

(c) whether the applicant has justified its request for an antenna height-power waiver; and

(d) whether the applicant's proposed facilities will cause harmful co-channel electrial interference to petitioner's Station KOP321.

3. *Need.* Our examination of the 150 MHz application indicates that more than 50% of the proposed reliable service area lies within the existing reliable service area for Station KOE252. Therefore, we consider that application as seeking fill-in transmitters, for which a vigorous and detailed need showing is

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[1] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 150 MHz band. Propagation data set forth in Section 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilties involved in this proceeding.

[1] We note that while Radiofone is applying to construct new facilities, Mobile Phone is seeking to add additional facilities for its existing station KLB802. A grant of either application would preclude a grant of the other.

[2] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450 MHz band. Propagation data set forth in Section 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding.

not required. *See RadioCall, Inc.*, 45 RR 2d 228 (Com. Car. Bur. 1979); *RAM Broadcasting of Texas, Inc.*, 52 FCC 2d 697 (1975). Accordingly, we find that Mobile has adequately demonstrated a need for its proposed 150 MHz facilities.

4. However, our examination of the 450 MHz application indicates that less than 50% of the proposed reliable service area lies within the existing reliable service area for Station KOE.252 Consequently, we do not consider these proposed facilities to be fill-in transmitters. Local need for the proposed facilities must be demonstrated by the methods described in *New York Telephone Co.*, 47 FCC 2d 488, 494, *recon. denied*, 49 FCC 2d 264 (1974), *aff'd sub nom. Pocket Phone Broadcast Servcvice, Inc.* v. *FCC*, 538 F.2d 447 (D.C Cir. 1976). The applicant has submitted a need survey which shows a local need for 9 mobile units and a wide-area need by 215 existing customers. The applicant has not adequately shown that this need will not be fully satisfied by the grant of the 2 proposed VHF channels. Accordingly, we shall designate for hearing a basic need issue with respect to the applicant's proposed 450 MHz channels.

5. *State Certification.* Industrial alleges that, in the 450 MHz application, Mobile misrepresented the status of its state certification.[1] Mobile, in its 450 MHz application, indicated that it possessed the needed state authority. Industrial claimed that additional state authorization was needed. Mobile explained that, when the application was filed, it believed that no further state certification was necessary. Since then, Mobile applied for and obtained additional state authority. Industrial has not shown that Mobile's claim that it needed no additional state certification was other than an honest error; it has not shown that Mobile deliberately sought to mislead the Commission. Accordingly, we find that Industrial has failed to show that Mobile intentionally misrepresented the scope of its state authority.

6. *Antenna height-power waiver.* Under current policies and procedures, antenna height-power waivers are not granted unless substantial need is shown to exist for mobile telephone service through a distant base station. *James Edwin Walley dba Auto Phone Company*, Mimeo 01548 (Com. Car. Bur., released November 14, 1980); *see also Domestic Public Land Mobile Radio Service (Public Notice)*, 47 RR 2d 666, 668 (MSD, 1980). The applicant has not specifically alleged that there is such a substantial need that would justify its requests for waiver. Accordingly, we shall deny the applicant's requests for antenna height-power waivers and shall require the applicant to comply with the provisions of Section 22.505 of the Rules.

7. *Interference.* Industrial alleges that Mobile's 150 MHz proposal will cause harmful co-channel electrical interference to Industrial's Station KOP321 at Marsh Peak (near Vernal), Utah, and to Industrial's proposed additional location for Station KOP321 at Hogsback Ridge (near LaBarge), Wyoming (File No. 20185–CD–P–4–79).[2] The application, as originally filed, contained interference studies, based on the Carey Report,[3] demonstrating interference-free operation. Industrial then claimed that, due to irregular terrain, the Carey Report methodology is unreliable. In response, the applicant submitted a Bullington[4] study demonstrating interference-free operation. Industrial replied that the applicant's Bullington study, after correction for the applicant's technical errors, fails to demonstrate interference-free operation. We have examined the showings and arguments of both parties, concerning interference, and find that their computations are based on the assumption that the applicant's requested antenna height-power waiver will be granted. Without the assumed waiver, the interference studies of both parties would show interference-free operation, according to our engineering staff. As we stated in paragraph 6, above, we are denying Mobile's request for an antenna height-power waiver and shall require Mobile to operate at a power that would conform with the requirements of Section 22.505 of the Rules. In addition, our engineering staff has performed its own interference study and found that petitioner's facilities will be adequately protected from harmful co-channel electrical interference. We therefore find that the applicant has adequately demonstrated interference-free operation.

8. We have also examined the remainder of petitioner's allegations and find them to be without merit.

9. Accordingly, we find that Mobile is legally, technically and otherwise qualified and that a partial grant of its 150 MHz application will serve the public interest, convenience and necessity.

10. Pursuant to Section 22.32(d) of the Rules (47 CFR § 22.32(d)) this grant in part shall be considered final unless the Commission should revise its action in response to a petition for reconsideration which: (1) is filed by the applicant within 30 days from the date of the release of this Memorandum Opinion and Order; (2) rejects the grant as made and explains the reason why the application should be granted as originally requested; and (3) returns the instrument of authorization.

11. In addition, Industrial requested, in its letter of October 23, 1980, that we consider allegations that Industrial raised in a complaint against Mobile's sister company, Mobile Telephone Service of Southern Utah, Inc. (MTSSU). We are currently investigating Industrial's complaint and have decided not to consider the complaint allegations in this proceeding. However, the partial grant of Mobile's 150 MHz application and any action that may be taken with respect to Mobile's 450 MHz application are without prejudice to and conditioned upon whatever action, if any, the Commission may take as a result of allegations raised in Industrial's complaint against MTSSU.

12. In view of the foregoing, it is ordered, That the petitions to deny filed by David R. Williams dba Insustrial Communications ARE GRANTED IN PART and DENIED IN PART, that the requests of Mobile Telephone, Inc., for waiver of Section 22.505 of the Rules Are Denied, and that, pursuant to Section 309(d) of the Communications Act of 1934, as amended,[5] and Section 22.32(d) of the Commissions Rules[6], the application of Mobile Telephone, Inc., File No. 21791–CD–P–4–79, Is Granted In Part to authorize operation on channels 152.09 MHz and 152.12 MHz with a maximum effective radiated power of 30 watts subject to the conditions of this order.

13. It is further ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended,[7] the application of Mobile Telephone, Inc., File No. 20186–CD–P–6–77, for frequencies in the 450 MHz band, IS DESIGNATED FOR HEARING

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1 Applicants in the DPLMRS are no longer required to submit evidence of prior state certification. Section 22.13(f)(2) of the Rules, 47 C.F.R. § 22.13(f)(2); *Domestic Public Land Mobile Radio Service*, Docket 20870, 69 FCC 2d 398 (1978) ("First Report and Order").

2 Mobile's 150 MHz application, as originally filed, also proposed operation on frequencies 152.03 MHz and 152.15 MHz. Industrial alleged that Mobile's proposed operation on these frequencies would cause harmful electrical interference to Industrial's proposed co-channel operations at Evanston, Wyoming (File No. 21986–CD–P–6–77). In response, Mobile deleted its request for these two frequencies.

3 Roger B. Carey, Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Radio Service, FCC Report No. R–6406 (June 24, 1964).

4 K. Bullington, Radio Propagation for Vehicular Communications, IEEE Transactions on Vehicular Technology, Vol. VT–26, No. 4, November, 1977.

5 47 U.S.C. 309(d).

6 47 C.F.R. 22.32(d).

7 47 U.S.C. 309(e).

subject to the conditions of this order and upon the following issues:

(a) to determine whether there is a public need for the proposed facilities and the extent thereof; and

(b) to determine, in light of the evidence adduced pursuant to the foregoing issue, what disposition of the application would best serve the public interest, convenience, and necessity.

13. It is further ordered, That the burden of proceeding with the introduction of evidence with respect to each issue and the burden of proof shall be upon the applicant.

14. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

15. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

16. It is further ordered, That the applicant may avail itself of an opportunity to be heard by filing with the Commission pursuant to Section 1.221(c) of the Rules* within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

17. The Secretary shall cause a copy of this Memorandum Opinion and Order to be published in the **Federal Register.**

Joseph A. Marino,

Acting Chief, Common Carrier Bureau.

[FR Doc. 81-6314 Filed 2-24-81; 8:45 am]

BILLING CODE 6712-01-M

*47 C.F.R. 1.221(c).

FEDERAL LABOR RELATIONS AUTHORITY

Privacy Act of 1974; Proposed New Systems of Records

Correction

In FR Doc. 80-39408 appearing at page 85316 in the issue for Wednesday, December 24, 1980, make the following changes:

1. On page 85316, the third column, the last entry under the Table of Contents, the word "Appendix" should be placed on a new line as a separate entry.

2. On page 85321, the first column, the entry under "System Location" should read as follows:

"Office of Director of Personnel, Federal Labor Relations Authority, 1900 E Street, N.W., Washington, D.C. 20424 and the Federal Labor Relations Authority regional offices (see list of regional offices in Appendix)."

3. On page 85321, the third column, the first bold-faced entry and text should read as follows:

"Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained on cards or in file folders."

4. On the same page, in the same column, the bold-faced heading reading "RETEBTUIB AND DISPOSAL:" should read "RETENTION AND DISPOSAL:".

5. On page 85323, the first column, in the paragraph designated "i.", the word "reorganized" should read "recognized".

6. On page 85327, the third paragraph, the first bold-faced heading should read: "Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:".

7. On page 85328, the first column, under the bold-faced entry entitled "Record source categories:" the paragraph designated "b." should read: "Federal Labor Relations Authority officials."

8. On page 85329, the middle column, the last paragraph, the word "building" should read "burning".

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 57-117]

Agreement Extending Pacific Wesbound Conference's Intermodal Authourity; Availability of Finding of No Significant Impact

Upon completion of an assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on the agreement will not constitute a major Federal action significantly affecting the quality of the humam environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.*, and that preparation of an environmental impact statement ;is not required.

Agreement No. 57-117 extends the intermodal authority of the Pacific Westbound Conference in the U.S/Far East trade for an unlimited amount of time and allows members to give 30 days' instead of 60 days' notice before taking independent action on intermodal matters.

This Finding of No Significant Impact (FONSI) will become final within 20 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 81-6229 Filed 2-24-81; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. T-3937]

Port Authority Terminals, Inc./ Prudential Lines, Inc.; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact (OEEI) has determined that the environmental issues relative to the referenced agreement do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. The agreement also will not have a significant impact upon energy consumption. The subject agreement provides for leasing of existing terminal facilities at Newport News, Virginia, by Port Authority Terminals, Inc., to Prudential Lines, Inc.

This Finding of No Significant Impact (FONSI) will become final within 20 days unless a petition for review is filed pursuant to 46 C.F.R. 547.6(b).

The FONSI and related assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5625.

Francis C. Hurney,

Secretary.

[FR Doc. 81-6230 Filed 2-24-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

California Pacific Corp.; Formation of Bank Holding Company

California Pacific Corporation, Bakersfield, California, 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 100 per cent of the voting shares of the successor by merger to American National Bank, Bakersfield, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1843(c)).

The application may be inspected at the offices of the Board of Governors or

at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 21, 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, February 19, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-6242 Filed 2-24-81; 8:45 am]

BILLING CODE 6210-01-M

Southern Bancshares, Inc.; Formation of Bank Holding Company

Southern Bancshares, Inc., Douglas, Georgia, 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 100 per cent of the voting shares of The Farmers Bank, Douglas, Georgia, and 56.2 per cent of The Farmers Bank, Locust Grove, 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 March 21, 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, February 19, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-6243 Filed 2-24-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipts of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO on February 12 (FTC, ICC), February 13 (FTC, NRC, CFTC), and February 18 (ICC), 1981. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number (if applicable); and the frequency with which the information is proposed to be collected.

Written comments on the proposed (CFTC, FTC, ICC and NRC) requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before March 16, 1981, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, 441 G Street, NW., Room 5106, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Trade Commission

The FTC requests clearance of new, single-time, voluntary survey which will be used to develop information to assist the Commission in evaluating the impact of its Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses, 10 CFR Part 433, which is often called the "holder-in-due-course" rule. The FTC states that the survey questionnaire will be sent to members of a consumer mail panel to measure respondent experience with sellers and financial institutions in dealing with problems with products or services purchased using credit. The survey will identify householders who have made purchases on credit (not purchase of a home or credit card purchases) or by means of a loan during a 12-month period and who have had problems with the product or service and stopped or delayed payment. The FTC estimates respondents will number approximately 5,000 members of a consumer mail panel and that time to complete the survey questionnaire will average 3 minutes per respondent.

The FTC requests clearance of new Form MGA/TRA which will be used to collect information connected with the Quarterly Financial Report. This form results from a plan established by the Commission pursuant to Section 3(b) of the FTC Improvements Act of 1980, Pub. L. 96-252, which required that the Commission submit its plan to the relevant Congressional Committee to substantially reduce burdens imposed upon small businesses by December 31, 1980, and that such plan take effect no later then October 31, 1981. Corporations in the less than $25 million asset size group will receive the shorter financial form MGA/TRA, which will contain 35 data items instead of the 63 items contained on the MG and TR forms. The FTC estimates respondents will number approximately 10,000 and companies with between $10 and $25 million in assets will require 2 to 4 hours to complete a MGA/TRA report and all other companies will require 30 minutes to 1 hour to complete the MGA/TRA report.

The FTC requests an extension without change of Forms MG and TR which collect information connected with the Quarterly Financial Report. These forms are sent to companies or corporations with more than $25 million in assets to collect data. The FTC estimates that respondents will number approximately 4,000 and that reporting burden will average 3.5 hours for each MG or TR report filed. The FTC requests extension of the clearance of Forms MG and TR to December 31, 1981, in order that they may expire at the same time as the new MGA/TRA form. There are no changes to the Forms MG and TR.

The FTC requests clearance of a new, single-time, voluntary questionnaire to be sent to approximately 300 public utilities covered by Title II of the National Energy Conservation Policy Act (NECPA), as amended by the Energy Security Act. The questionnaire will seek information regarding residential energy conservation programs which these utilities operate or plan to operate during 1981. The questionnaire inquires about the method utilities employ to assist their residential customers to learn about or obtain energy conservation or renewable resource measures in order to assess their competitive impact and recommend whether or not utilities should be permitted to continue to carry out such activities. The responses will be used in the preparation of a FTC report to Congress by January 1, 1982, required by Section 225 of the National Energy Conservation Policy Act. The FTC estimates respondents to the questionnaire will number approximately 300 and that time to complete the questionnaire will require 2 hours.

Interstate Commerce Commission

The ICC requests clearance of a revision in a new questionnaire which will be used to gather information about the adequacy of truck service to small

communities and how the Motor Carrier Act of 1980 has impacted that service. This voluntary questionnaire will be sent to shippers and receivers (businesses) in small communities throughout the contiguous states. Responses will be tabulated, analyzed and then released to the public in a report. The identical questionnaire will be sent to shippers in communities of all sizes throughout the State of Florida, in order to study the effects of that state's move to deregulate the intrastate trucking industry. The only change to this form is the inclusion of a new question 6 which reads: "In the last 6 months have you had more, less, or about the same number of choices for ways to receive and ship your freight by the hire truck." Several check-off boxes are listed for "more choices", "about the same choices", "less choices", or "received or sent no shipments". The ICC estimates respondents will number approximately 1200–1500 and that time to complete the questionnaire will average 11 minutes. GAO published a notice on January 11, 1981, declaring the clearance of the form granted on January 8, 1981, null and void (see 46 FR 5069).

The ICC requests an extension-without-change of Form ACV–159, Service Life Study, required to be filed by Class I line-haul railroads pursuant to Subchapter III, 49 USC 11143 of the Interstate Commerce Act. Form ACV–159 and the accompanying recordkeeping procedures are the means by which the Commission maintains service life data for use in determining service life of property for computation of depreciation rates by the straight line method. Data collected by Form ACV–159 will also be used for car-hire compensation in compliance with the Interstate Commerce Act, Subchapter II, 49 USC 11122 and determination of levels of adequate revenue levels as required by the Staggers Rail Act of 1980. The ICC estimates there are approximately 41 respondents and that time required to complete the form averages 40 hours.

Nuclear Regulatory Commission

The NRC requests an extension-without-change clearance of Form NRC–483, Registration Certificate-In Vitro Testing With Byproduct Material Under General License. Form NRC–483 must be filed in accordance with 10 CFR 31.11(b) by any physician, clinical laboratory, hospital or veterinarian requesting a general license for the use of iodine-125, iodine-131, carbon-14, hydrogen-3, iron-59, selenium-75 and mock iodine-125. If the general license is approved, the respondent receives a validated copy of the registration certificate (Form NRC–483) filed with an assigned registration number on it. The NRC estimates that respondents will number approximately 425 and that time to complete the form will average 6 minutes.

The NRC requests clearance of a new Form NRC–57, Request for Records; a form developed for public use through the NRC's Public Document room to facilitate requests for documents. Form NRC–57 will be used by approximately 84,000 requesters as estimated by NRC and time to prepare each request will average one minute.

Commodity Futures Trading Commission

The CFTC requests clearance of a new, single-time, voluntary questionnaire on "Use of Letters of Credit and Size of Business Conducted on Foreign Markets" which will be sent to all registered future commission merchants. This questionnaire covers two subjects: The extent to which letters of credit are used to cover initial margin variations and the size of the foreign futures market. The CFTC estimates respondents will number 371 and that time to complete the questionnaire will average 20 minutes.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 81-6250 Filed 2-24-81; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the National Archives and Records Service Advisory Committee on Preservation, Executive Committee, will meet on March 12, 1981, from 9:30 a.m. to 4:00 p.m., Social Security Administration, Testing Room 1103, Metro West Building, 300 North Greene Street, Baltimore, Maryland. The meeting will be devoted to a review of subcommittee work on the preservation of extent Federal records, including microforms and machine-readable records.

The meeting will be open to the public. For further information call Alan Calmes, 202–523–3159.

Dated: February 19, 1981.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 81-6380 Filed 2-24-81; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare and Medicaid Programs; Schedules of Guidelines for Physical Therapy and Respiratory Therapy Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice with a request for comments.

SUMMARY: This notice amends the current schedules of salary equivalency guidelines for Medicare program reimbursement for the reasonable costs of physical therapy and respiratory therapy services furnished under an arrangement with a hospital or other provider. The schedules will be used by the program's fiscal intermediaries to determine the maximum allowable cost of such services.

These schedules update the schedule published on October 6, 1978 (43 FR 46377), for physical therapy services, and those published on June 3, 1980 (45 FR 37527), for respiratory therapy services.

In addition, these guidelines apply to reimbursement under the Medicaid program where they have been incorporated in the State plans or where States follow the Medicare principles of reimbursement.

EFFECTIVE DATES: The first set of physical therapy guideline amounts in this notice is applicable for physical therapy services furnished on or after October 1, 1979, through September 30, 1980. (In the States of Connecticut, Delaware, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, the October 6, 1978, guidelines will continue to be in effect through September 1980. In addition, it should be noted that the updated computation of guidelines in the States of Alabama, Illinois, Mississippi, South Carolina, and Wisconsin resulted in amounts that are the same as those in the October 1978 schedule.) The second schedule of guideline amounts for physical therapy services is effective for services furnished on or after October 1, 1980, through September 30, 1981, in all States and the District of Columbia.

The schedule of guideline amounts for respiratory therapy services are effective for services furnished on or after October 1, 1980, through September

30, 1981, in all States and the District of Columbia.

COMMENT DATE: Although we are publishing this as a final notice for reasons indicated in the Supplementary Information, we will consider any comments received by: April 27, 1981.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave, S.W., Washingon D.C., or to Room 789, East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP–87–FNC. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave, S.W., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION, CONTACT: William Goeller (301) 597–1802.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(5) of the Social Security Act requires the Secretary to establish criteria for determining the reasonable cost of services furnished by therapists or other health related personnel, individually or through an organization, under an arrangement with a provider of services, a clinic, a rehabilitation agency, or a public health agency. These services include physical therapy, occupational therapy, speech therapy and other therapy services and services of other health specialists (other than physicians). The requirements of the statute are implemented by regulations at 42 CFR 405.432. Under an arrangement, payment for covered services is made to the hospital or other provider (rather than to the therapist or supplier organization).

Medicare allowable cost for these services may not exceed an amount equal to the prevailing salary that the hospital or other provider would normally incur in furnishing these services if it had furnished them directly, plus allowances for fringe benefits, overhead expenses, travel, equipment, supplies, and supervisory and administrative activities.

The regulations provide that HCFA will issue guidelines setting maximum hourly amounts for therapy services furnished to Medicare beneficiaries under arrangements. These guidelines, with updates as necessary, apply only to the amount of reimbursement the Medicare program will make to a provider for therapy services obtained under an arrangement. The guidelines are not intended to dictate or otherwise interfere in the terms of the contract that a provider may wish to enter into with a therapist or therapist organization. The guidelines do not apply to services furnished by employees of a hospital or other provider; the cost of these services will continue to be evaluated under the Medicare program's reasonable cost provisions. (See 42 CFR 405.451.)

Effective Dates of Physical Therapy Guidelines

One schedule of physical therapy guidelines is effective for physical therapy services furnished under arrangements on or after October 1, 1979, through September 30, 1980. It increases the previous guidelines for all States except Alabama, Connecticut, Delaware, Georgia, Illinois, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

The guidelines are being made retroactive because of the lapse of time since publication of the last schedule of guidelines. The effective date of October 1, 1979, is the same as the retroactive effective date contained in the schedule of guidelines for respiratory therapists that were published in the **Federal Register** on June 3, 1980 (45 FR 37527). We believe that we should be consistent in application of guidelines to both physical therapists and respiratory therapists.

This updated schedule of guidelines does not include changes for 16 of the 21 States mentioned above and the District of Columbia, because revised guideline amounts for those areas would have been lower than the amounts in the October 6, 1978 schedule and we do not want to disadvantage providers in the affected areas. Therefore, the October 6, 1978 guidelines will continue in effect for these 16 States and the District of Columbia through September 1980. (In the States of Alabama, Illinois, Mississippi, South Carolina, and Wisconsin, the updated guideline amounts are the same as the October 6, 1978, amounts.) We discuss the reason for these lower amounts below in the discussion of *"Data"*.

The second schedule of physical therapy guidelines contained in this notice is effective for physical therapy services furnished under arrangements on or after October 1, 1980, through September 30, 1981, in all States and the District of Columbia. We are including this schedule to account for increases in costs that have occurred since development of the existing guidelines.

Effective Date of Respiratory Therapy Guidelines

We have also included updated schedules of guidelines for respiratory therapy services furnished by registered, certified, and nonregistered and noncertified respiratory therapists. These schedules update the ones that were published in the **Federal Register** on June 3, 1980 (45 FR 37527), and are effective for respiratory therapy services furnished on or after October 1, 1980, through September 30, 1981, in all States and the District of Columbia. As with the physical therapy guidelines, we are including these schedules in this notice in order to account for increases in costs that have occurred since development of the current schedules of guidelines.

Methodology for Determining Hourly Salary Equivalency and Standard Travel Allowance Amounts

I. Schedule of Guidelines for Physical Therapy Services Effective October 1, 1979 through September 30, 1980

The methodology used in determining the guideline amounts in this schedule is the same as that used in establishing the October 6, 1978, guidelines except for the calculation of the fringe benefit and expense factor. We have recalculated the fringe benefit and expense factor, which is now 57.66 pecent of the updated prevailing salary amounts determined by the Bureau of Labor Statistics (BLS), instead of the 50 percent used in the October 1978 guidelines. We have also used updated BLS data in determining the salary amounts in this schedule. A more detailed explanation of the methodology follows.

A. *Data.*

BLS Hospital Wage Survey Data

The guidelines are based on salary data of hospital personnel from the latest BLS triennial hospital wage survey, which was conducted in September, 1978.

HCFA designated 10 geographic regions for grouping the data from the survey and developed a guideline amount for each State, by using either the salary data directly from that State or a regional average.

We established the geographic regions in order to develop guidelines for States in which BLS does not conduct a survey. We develop guidelines for these States by computing a regional average based on figures for States within the region that have been surveyed. For example, one region is composed of Florida, Georgia, South Carolina, Alabama, and Mississippi. BLS has survey data from Miami and Atlanta. The guideline amount for Florida is based on data from the Miami survey, and the amount for Georgia is based on data from the Atlanta survey. For South Carolina, Alabama, and Mississippi, we apply a regional average, which is an average of the prevailing salaries in Miami and Atlanta.

Survey data is obtained from the Standard Metropolitan Statistical Areas (SMSAs) in a State. If data are available from more than one SMSA, we compute a State average. For example, we determined the State average for therapists in New York by using data compiled in Buffalo and New York City, the two SMSAs covered by the survey.

Once the BLS data were arrayed by State, using the process described above, we updated the salary data to account for inflation during the period September 1978 through September 1979 by using a figure for overall hospital wages, as determined by BLS (BLS Employment and Earnings Bulletin line SIC–806 for September 1979). We compared this figure with the comparable figure for September 1978 (the month of the BLS triennial hospital wage survey) to obtain an overall percentage increase, and applied this percentage to the September 1978 physical therapy salary data. Using these updated 1978 data resulted in lower guideline amounts for therapists in 16 States and the District of Columbia, than the amounts published in the **Federal Register** on October 6, 1978. In addition, using the updated data resulted in amounts in 5 States that are the same as those in the October 1978 schedule. The reason for the lack of any increase in amounts for these areas is because the factor used to update the 1975/76 BLS data, which formed the basis of the October 1978 guidelines, overestimated the actual rate of increase between 1975/76 and 1978. In order to avoid disadvantaging providers by applying lower guideline amounts retroactively in the 16 States and the District of Columbia, the October 1978 guideline amounts will continue in effect through September 1980 in these areas.

Physical Therapy Supervisor Salary Data

The 1978 BLS hospital survey also included data on salaries paid to physical therapy supervisors. However, it is not possible from the data to associate actual salaries paid to the supervisors surveyed with the number and kinds of employees they supervise. Without this information, it is not possible to develop specific guidelines that accurately reflect the different salaries paid to supervisors at different levels, or that are related to the extent of physical therapy supervisory responsibility.

Moreover, for several SMSAs surveyed, the data do not contain the 75th percentile of supervisory salaries. Congress expected that the 75th percentile of salaries would be used in setting salary equivalency guidelines (see Senate Finance Committee Report, p. 251, Senate Report 92–1230). Since the nonsupervisory guidelines are set at the 75th percentile, we believe that it would not be appropriate to use a different percentile for guidelines that would apply to supervisory salaries. Therefore, we have not developed any guidelines based on the BLS supervisory data reported in the 1978 survey for those therapists who perform administrative or supervisory duties in addition to furnishing patient care.

Under current Medicare program instructions, it is the fiscal intermediary's responsibility to determine the appropriate allowance for supervisory therapists, who also furnish patient care, based on the intermediary's knowledge of the differential between salaries for physical therapists and their supervisors in similar provider settings in the area. (See § 1412.5, Part I, Provider Reimbursement Manual, HIM–15.)

We believe that the BLS supervisory data represent a valuable source of information that could be used by intermediaries to supplement their knowledge of specific supervisory situations in physical therapy departments. We are now in the process of analyzing the data and working with BLS to determine how this data can best be used. Once this process is completed, we will include in the Provider Reimbursement Manual the appropriate instructions for the intermediaries.

Nursing and Personal Care Facilities Survey Data

We also examined the data contained in the September 1978 BLS survey of physical therapists' salaries in nursing and personal care facilities to determine if those data could be used in deriving separate guidelines for services in these settings. However, the data are minimal, with the physical therapist salaries reported being based on a very small number of observations in only 16 of the 21 areas surveyed.

Also, most of the data are from the East and West coasts, with little data being available to use in computing guidelines for the central part of the United States. In addition, the survey reports do not contain the 75th percentile of physical therapist salaries, as is required under the regulations in order to determine the prevailing salary component of guidelines (see item 2 below), and in some of the areas surveyed there are no separate categories for salaries paid to full-time and part-time personnel. Therefore, we determined that the salary data from this survey are insufficient for purposes of developing separate guidelines for services in nursing and personal care facilities.

The data did show, however, that physical therapists working in these facilities generally earn, on the average, higher wages than physical therapists in hospitals. While there is no indication that this situation is universal, we will advise intermediaries in a Provider Reimbursement Manual revision of these data and instruct them to take this fact into account when evaluating requests filed by skilled nursing facilities (SNFs) for special labor market exceptions under 42 CFR 405.432(f)(2). An exception may be granted under this section when a provider demonstrates that the guidelines for physical therapy services are inappropriate because of special labor market conditions in the area. In the process of evaluating these requests, the intermediary must determine the rates that other providers in an area generally have to pay therapists or other health care specialists. The BLS data on nursing and personal care facilities will now be an additional source which the intermediary can use in making these determinations.

B. *Prevailing salary.*

The prevailing salary component of the guidelines is based on the 75th percentile of salary ranges paid to physical therapists employed full time by hospitals in each SMSA surveyed as determined by BLS.

C. *Fringe benefit and expense factor.*

The fringe benefit and expense factor is an amount that is added to the basic salary amounts obtained from the BLS data, in order to recognize fringe benefits that are generally received by an employee therapist, as well as overhead expenses that an individual not working as an employee might incur

in furnishing services under arrangements.

In this updated schedule of guidelines we derived the fringe benefit component of the factor from an analysis of BLS studies included in the series, "Employee Compensation in the Private Non farm Economy". We used the BLS fringe benefit data because of the larger sample size on which the BLS studies are based, as well as the explicit direction of Congress to use BLS data where feasible (p. 251, S. Rept. 92–1230). In order to update the fringe benefit component, we appliled the average monthly rate of increase in fringe benefits that occured between 1972 and 1977, as indicated by the BLS data, for each month from July 1977 through September 1979 to estimate the amount by which fringe benefits increased through Septembr 1979.

We developed the expense component of the factor from an analysis of data derived from trade journals and business organizations on the costs of maintaining an office. To derive the rental portion of the expense component, we computed the average monthly rate of increase in rents between July 1975 and July 1979, as indicated by data compiled by the Building Owners and Managers Association International (BOMA) and we applied this rate of increase through September 1979. We updated other expenses, such as for insurance and office supplies, through September 1979 based upon increases that have occurred in the Consumer Price Index. We added the updated rental amount and the updated amount for other expenses to arrive at a total monthly amount for expenses, and then converted this amount to an hourly figure. We divided this hourly figure by an overall average of physical therapist prevailing salaries at the 75th percentile to arrive at a percentage factor for expenses. Provider overhead expenses such as space, heat, light, etc., are not included in this factor since these costs are generally absorbed by the provider, even when therapy services are provided under arrangements. The Medicare program reimburses its share of these expenses on an apportioned basis according to the utilization of physical therapy services by Medicare beneficiaries.

Based on an analysis of the data, we calculated a fringe benefit and expense factor equal to 57.66 percent of the BLS salary amounts. We then multiplied this percentage figure by the updated salary data for each State to arrive at a dollar figure, and we added it to the updated salary amounts.

The fringe benefit and expense factor for the physical therapy guidelines is lower than the factor we determined for the respiratory therapy guidelines. This is due in part to the method we used to derive the final percentage figure for expenses. As mentioned above, we divide the hourly figure for expenses by an overall average of therapists' prevailing salaries at the 75th percentile and arrive at a percentage factor for expenses. Since the average of physical therapist prevailing salaries is higher than the comparable figure for respiratory therapists, the percentage factor for expense is higher for respiratory therapists than for physical therapists.

The difference between the fringe benefit and expense percentages is also due to the fact that we used more recent data on fringe benefits and expenses for the physical therapy guidelines than were available to us for computing the respiratory guidelines published on June 3, 1980.

This calculation of fringe benefits and expenses for the physical therapy guidelines results in a more accurate fringe benefit and expense factor than was used on the October 1978 guidelines. This is because the factor used in the October 1978 guidelines was rounded to 50 percent from 52 percent. The fringe benefit and expense factor we determined for these updated guidelines in not rounded. We believe, therefore, that an adjustment is appropriate for those providers that have had costs disallowed under the October 1978 guidelines because of the calculation of the fringe benefit and expense factor. Affected providers should contact their intermediaries, who will make adjustments on a case-by-case basis. We will issue instructions to the fiscal intermediaries shortly for computing the adjustment to the October 1978 Adjusted Hourly Salary Equivalency Amounts. The computation of the adjustment will result in a 2 percent increase in the fringe benefit and expense factor (i.e., from 50 percent to 52 percent).

D. *Standard travel allowance.*

The guidelines include a standard travel allowance that compensates the therapist for his time in reaching the provider site. We computed this allowance for each State as being one-half of the adjusted hourly salary equivalency amount, based on an estimated average travel time of one-half hour.

In addition to this allowance, we also recognize a standard travel expense, covering the costs of transportation, as an element of allowable costs (see § 1412.6, Part I, Provider Reimbursement Manual, HIM–15). The standard travel expense is based on government mileage rates computed by the General Services Administration (GSA)

II. Schedules of Guidelines for Physical Therapy and Respiratory Therapy Services Effective October 1, 1980, through September 30, 1981

We have computed the schedules of guidelines for physical therapy and respiratory therapy services that are to be effective October 1, 1980, using the same methodology described above. In addition, we have updated the wage data from the 1978 BLS hospital wage survey through September 1980 by using the figure on overall hospital wages from the BLS Employment and Earnings Bulletin.

It should be noted that there are three schedules of respiratory therapy guidelines, one for registered therapists, one for certified therapists, and one for therapists who are neither registered nor certified. We use these categories because they conform to industry practice, as well as to the categories used in BLS hospital wage surveys. There is only one schedule of physical therapy guidelines, for licensed physical therapists, again corresponding to the BLS survey and general industry practice.

We have also calculated revised fringe benefit and expense factors for both the physical therapy and respiratory therapy guidelines. The revised factors are 58.29 percent for physical therapy and 63.6 percent for respiratory therapy.

The percentage for the respiratory therapy guidelines is lower than the one we calculated for guidelines published on June 3, 1980. This is because more recent data on fringe benefits and expenses, which was not available to us prior to June 3, 1980, does not show as great an increase in these elements as we had previously estimated. Specifically, for the fringe benefit portion of the factor that was included in the October 1979 guidelines, we applied the average monthly rate of increase in fringe benefits that occurred between 1972 and 1976, as indicated by BLS data. We then multiplied this average by the number of months in the period from July 1976 through September 1979 and added this amount to the percentage determined for 1976.

A more recent fringe benefit study by BLS for 1977, however, indicates that there was generally no increase in fringe benefits between 1976 and 1977. Therefore, our revised computation of the average monthly rate of increase in fringe benefits between 1972 and 1977, which is used as the basis of our

projection of fringe benefit increases through September 1980, resulted in a lower percenatge than our earlier calculation.

Our computation of the expense portion of the factor also resulted in a lower percentage than the one we calculated for the guidelines published on June 3, 1980. This is because rental data for 1979, which was not available to us prior to June 3, 1980, indicated that we overestimated the rate of increase in rental expenses, based on a comparison of 1975 and 1978 data. Also, the average overall prevailing salary of respiratory therapists, updated by hospital wage data, increased at a greater rate than did expenses. Therefore, the amount for the expense portion of the factor, expressed as a percentage of this overall salary, is lower than that computed for the October 1979 guidelines.

In order to institute a cycle of regular updates, we plan to issue our next schedules of physical therapy and respiratory therapy reimbursement guidelines effective for services furnished on or after October 1, 1981. If publication of these schedules is delayed, however, we believe we should still make provisions for updating the existing guidelines.

Accordingly, if we have not been able to publish a notice of revised physical therapy and respiratory therapy reimbursement guidelines prior to October 1, 1981, we will increase the current amounts, effective for services furnished on or after that date, by a percentage based on data on overall hospital wages of production and nonsupervisory workers from line SIC-806 of BLS' Employment and Earnings Bulletin. (That data shows that, for the twelve month period October 1979 through September 1980, these wages increased 10.11 percent.) We would publish a notice of the update factor, and the current guidelines, as updated, would remain in effect until a complete set of revised guidelines was published. The standard travel allowance would also be adjusted so as to equal one-half of the new adjusted hourly salary equivalency amount.

Waiver of Proposed Notice

We are issuing this notice in final, rather than proposed form, because without updated guidelines, providers may find it increasingly difficult to furnish physical therapy and respiratory therapy services, with the result being that Medicare beneficiaries and Medicaid recipients may not be able to obtain these medically necessary services. In addition, the methodology for computing the guidelines is the same as we have used for previous updates. For these reasons, we believe it would be contrary to the public interest to further delay publication of these updates.

Similarly, we believe that the time which has elapsed since physical therapy guidelines were last published, and respiratory therapy guidelines were last effective, constitutes good cause for not making the updated guidelines effective 30 days after publication, but rather making them effective retroactively as specified in this notice.

We will, however, consider any comments that we receive as a result of publication of this notice and make adjustments in the guidelines as appropriate. In addition, we are working on revisions to the methodology for these schedules, and plan to issue them in proposed form to allow the public an opportunity to comment on these changes. In this regard, we will also consider any relevant data that are submitted in response to this notice that we could use to establish the wage portion or the fringe benefit and expense portion of the guidelines.

Schedule of Guidelines for Physical Therapy Services Furnished Under Arrangements

Adjusted Hourly Salary Equivalency Amounts and Standard Travel Allowances for Physical Therapists (Full-Time, Regular Part-Time, and Home Visits) [1]

Effective for services furnished on or after October 1, 1979 through September 30, 1980. (For services furnished in the States of Alabama, Connecticut, Delaware, Georgia, Illinois, Kentucky, Maine, Maryland, Massachesetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, the schedule is the same as the October 6, 1978 guidelines.)

(This schedule is not to be used for physical therapy assistants or aides.)

	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	$11.70	$5.85
Alaska [1]	18.60	9.30
Arizona	15.00	7.50
Arkansas	12.00	6.00
California	15.00	7.50
Colorado	11.70	5.85
Connecticut	11.60	5.80
Delaware	13.70	6.85
District of Columbia	12.50	6.25
Florida	12.80	6.40
Georgia	11.00	5.50
Hawaii [2]	17.20	8.60
Idaho	12.80	6.40
Illinois	12.50	6.25
Indiana	13.10	6.55
Iowa	11.90	5.95
Kansas	11.90	5.95
Kentucky	12.00	6.00
Louisiana	12.00	6.00
Maine	11.60	5.80
Maryland	12.00	6.00
Massachusetts	11.60	5.80
Michigan	14.20	7.10
Minnesota	12.30	6.15
Mississippi	11.70	5.85
Missouri	11.60	5.80
Montana	11.70	5.85
Nebraska	11.90	5.95
Nevada	15.00	7.50
New Hampshire	11.60	5.80
New Jersey	13.70	6.85
New Mexico	12.00	6.00
New York	14.10	7.05
North Carolina	12.00	6.00
North Dakota	11.70	5.85
Ohio	13.30	6.65
Oklahoma	12.00	6.00
Oregon	13.60	6.80
Pennsylvania	12.80	6.40
Rhode Island	11.60	5.80
South Carolina	11.70	5.85
South Dakota	11.70	5.85
Tennessee	11.90	5.95
Texas	12.00	6.00
Utah	11.70	5.85
Vermont	11.60	5.80
Virginia	12.00	6.00
Washington	11.90	5.95
West Virginia	12.00	6.00
Wisconsin	12.30	6.15
Wyoming	11.70	5.85

[1] Adjusted for 25 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

[2] Adjusted for 15 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

Schedule of Guidelines for Physical Therapy Services Furnished Under Arrangements

Adjusted Hourly Salary Equivalency Amounts and Standard Travel Allowances for Physical Therapists (Full-Time, Regular Part-Time, and Home Visist) [1]

Effective for services furnished on or after October 1, 1980 through September 30, 1981.

[1] A provider is considered to require services on a full-time or regular part-time basis, if the total hours of service average 15 or more per week.

[1] A provider is considered to require services on a full-time or regular part-time basis, if the total hours of service average 15 or more per week.

Note.—If a new schedule of guidelines is not published prior to October 1, 1981, we will increase the current amounts, effective for services furnished on or after that date, by a percentage based on data on overall hospital wages of production and nonsupervisory workers. We would publish a notice of the update factor, and the current guidelines, as updated, would remain in effect until a complete set of revised guidelines was published.

(This schedule is not to be used for physical therapy assistants or aides.)

	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	$13.20	$6.60
Alaska [1]	20.90	10.45
Arizona	16.70	8.35
Arkansas	13.50	6.75
California	16.70	8.35
Colorado	13.00	6.50
Connecticut	12.70	6.35
Delaware	14.60	7.30
District of Columbia	13.50	6.75
Florida	14.30	7.15
Georgia	12.10	6.05
Hawaii [2]	19.20	9.60
Idaho	14.30	7.15
Illinois	14.00	7.00
Indiana	14.60	7.30
Iowa	13.20	6.60
Kansas	13.20	6.60
Kentucky	13.20	6.60
Lousisana	13.50	6.75
Maine	12.70	6.35
Maryland	12.90	6.45
Massachusetts	12.70	6.35
Michigan	15.90	7.95
Minnesota	13.80	6.90
Mississippi	13.20	6.60
Missouri	12.90	6.45
Montana	13.00	6.50
Nebraska	13.20	6.60
Nevada	16.70	8.35
New Hampshire	12.70	6.35
New Jersey	14.60	7.30
New Mexico	13.50	6.75
New York	15.10	7.55
North Carolina	13.20	6.60
North Dakota	13.00	6.50
Ohio	14.90	7.45
Oklahoma	13.50	6.75
Oregon	15.20	7.60
Pennsylvania	13.80	6.90
Rhode Island	12.70	6.35
South Carolina	13.20	6.60
South Dakota	13.00	6.50
Tennessee	13.20	6.60
Texas	13.50	6.75
Utah	13.00	6.50
Vermont	12.70	6.35
Virginia	13.20	6.60
Washington	13.20	6.60
West Virginia	13.20	6.60
Wisconsin	13.80	6.90
Wyoming	13.00	6.50

[1] Adjusted for 25 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

[2] Adjusted for 15 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

Schedule of Guidelines for Respiratory Therapy Services Furnished Under Arrangements

Adjusted Hourly Salary Equivalency Amounts and Standard Travel Allowances for Registered Respiratory Therapists (Full-Time and Regular Part-Time)[1]

Effective for services furnished on or after October 1, 1980 through September 30, 1981.

Note.—If a new schedule of guidelines is not published prior to October 1, 1981, we will increase the current amounts, effective for services furnished on or after that date, by a percentage based on data on overall hospital wages of production and nonsupervisory workers. We would publish a notice of the update factor, and the current guidelines, as updated, would remain in effect until a complete set of revised guidelines was published.

(This schedule is not to be used for respiratory therapy aides or trainees.)

[1] A provider is considered to require services on a full-time or regular part-time basis, if the total hours of service average 15 or more per week.

	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	$12.60	$6.30
Alaska [1]	18.40	9.20
Arizona	14.80	7.40
Arkansas	11.30	5.65
California	14.80	7.40
Colorado	13.00	6.50
Connecticut	12.50	6.25
Delaware	14.30	7.15
District of Columbia	13.50	6.75
Florida	13.50	6.75
Georgia	11.70	5.85
Hawaii [2]	16.90	8.45
Idaho	13.50	6.75
Illinois	12.80	6.40
Indiana	13.10	6.55
Iowa	13.00	6.50
Kansas	13.00	6.50
Kentucky	13.50	6.75
Louisiana	11.30	5.65
Maine	12.50	6.25
Maryland	13.50	6.75
Massachusetts	12.50	6.25
Michigan	13.60	6.80
Minnesota	12.80	6.40
Mississippi	12.60	6.30
Missouri	13.10	6.55
Montana	13.00	6.50
Nebraska	13.00	6.50
Nevada	14.80	7.40
New Hampshire	12.50	6.25
New Jersey	14.30	7.15
New Mexico	11.30	5.65
New York	14.90	7.45
North Carolina	13.50	6.75
North Dakota	13.00	6.50
Ohio	13.30	6.65
Oklahoma	11.30	5.65
Oregon	13.60	6.80
Pennsylvania	13.50	6.75
Rhode Island	12.50	6.25
South Carolina	12.60	6.30
South Dakota	13.00	6.50
Tennessee	13.50	6.75
Texas	11.30	5.65
Utah	13.00	6.50
Vermont	12.50	6.25
Virginia	13.50	6.75
Washington	13.50	6.75
West Virginia	13.50	6.75
Wisconsin	13.00	6.50
Wyoming	13.00	6.50

[1] Adjusted for 25 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

[2] Adjusted for 15 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

Schedule of Guidelines for Respiratory Therapy Services Furnished Under Arrangements

Adjusted Hourly Salary Equivalency Amounts and Standard Travel Allowances for Certified Respiratory Therapists (Full-Time and Regular Part-Time)[1]

Effective for services furnished on or after October 1, 1980 through September 30, 1981.

Note.—If a new schedule of guidelines is not published prior to October 1, 1981, we will increase the current amounts, effective for services furnished on or after that date, by a percentage based on data on overall hospital wages of production and nonsupervisory workers. We would publish a notice of the update factor, and the current guidelines, as updated, would remain in effect until a complete set of revised guidelines was published.

(This schedule is not to be used for respiratory therapy aides or trainees.)

	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	$11.00	$5.50
Alaska [1]	17.60	8.80
Arizona	14.10	7.05
Arkansas	10.40	5.20
California	14.10	7.05
Colorado	11.20	5.60
Connecticut	11.70	5.85
Delaware	13.50	6.75
District of Columbia	12.50	6.25
Florida	12.20	6.10
Georgia	9.90	4.95
Hawaii [2]	16.20	8.10
Idaho	12.50	6.25
Illinois	12.50	6.25
Indiana	12.50	6.25
Iowa	11.30	5.65
Kansas	11.30	5.65
Kentucky	12.30	6.15
Louisiana	10.40	5.20
Maine	11.70	5.85
Maryland	12.20	6.10
Massachusetts	11.70	5.85
Michigan	12.50	6.25
Minnesota	11.00	5.50
Mississippi	11.00	5.50
Missouri	11.50	5.75
Montana	11.20	5.60
Nebraska	11.30	5.65
Nevada	14.10	7.05
New Hampshire	11.70	5.85
New Jersey	13.50	6.75
New Mexico	10.40	5.20
New York	13.60	6.80
North Carolina	12.30	6.15
North Dakota	11.20	5.60
Ohio	12.30	6.15
Oklahoma	10.40	5.20
Oregon	12.60	6.30
Pennsylvania	12.80	6.40
Rhode Island	11.70	5.85
South Carolina	11.00	5.50
South Dakota	11.20	5.60
Tennessee	12.30	6.15
Texas	10.40	5.20
Utah	11.20	5.60
Vermont	11.70	5.85

[1] A provider is considered to require services on a full-time or regular part-time basis, if the total hours of service average 15 or more per week.

	Adusted hourly salary equiva-lency amount	Standard travel allow-ance
Virginia	12.30	6.15
Washington	12.20	6.10
West Virginia	12.30	6.15
Wisconsin	12.50	6.25
Wyoming	11.20	5.60

[1] Adjusted for 25 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

[2] Adjusted for 15 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

Schedule of Guidelines for Respiratory Therapy Services Furnished Under Arrangements

Adjusted Hourly Salary Equivalency Amounts and Standard Travel Allowances for Nonregistered and Non-certified Respiratory Therapists (Full-Time and Regular Part-Time) [1]

Effective for services furnished on or after October 1, 1980 through September 30, 1981.

Note.—If a new schedule of guidelines is not published prior to October 1, 1981, we will increase the current amounts, effective for services furnished on or after that date, by a percentage based on data on overall hospital wages of production and nonsupervisory workers. We would publish a notice of the update factor, and the current guidelines, as updated, would remain in effect until a complete set of revised guidelines was published.

(This schedule is not to be used for respiratory therapy aides or trainees.)

	Adusted hourly salary equiva-lency amount	Standard travel allow-ance
Alabama	$9.70	$4.85
Alaska [1]	17.60	8.80
Arizona	14.10	7.05
Arkansas	8.90	4.45
California	14.10	7.05
Colorado	11.80	5.90
Connecticut	10.70	5.35
Delaware	11.80	5.90
District of Columbia	11.20	5.60
Florida	9.90	4.95
Georgia	9.50	4.75
Hawaii [2]	16.20	8.10
Idaho	11.30	5.65
Illinois	11.80	5.90
Indiana	11.50	5.75
Iowa	10.00	5.00
Kansas	10.00	5.00
Kentucky	11.20	5.60
Louisiana	8.90	4.45
Maine	10.70	5.35
Maryland	11.00	5.50
Massachusetts	10.70	5.35
Michigan	12.30	6.15
Minnesota	10.00	5.00
Mississippi	9.70	4.85
Missouri	10.00	5.00
Montana	11.80	5.90
Nebraska	10.00	5.00
Nevada	14.10	7.05
New Hampshire	10.70	5.35
New Jersey	11.80	5.90
New Mexico	8.90	4.45
New York	12.00	6.00
North Carolina	11.20	5.60
North Dakota	11.80	5.90
Ohio	11.00	5.50
Oklahoma	8.90	4.45
Oregon	12.00	6.00
Pennsylvania	11.50	5.75
Rhode Island	10.70	5.35
South Carolina	9.70	4.85
South Dakota	11.80	5.90
Tennessee	11.20	5.60
Texas	8.90	4.45
Utah	11.80	5.90
Vermont	10.70	5.35
Virginia	11.20	5.60
Washington	10.70	5.35
West Virginia	11.20	5.60
Wisconsin	11.00	5.50
Wyoming	11.80	5.90

[1] Adjusted for 25 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

[2] Adjusted for 15 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

[1] A provider is considered to require services on a full-time or regular part-time basis, if the total hours of service average 15 or more per week.

(Sections 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act, 42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v)(5), 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance, and 13.774, Medicare—Supplementary Medical Insurance)

Dated: February 18, 1981.

Paul R. Willging,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 81-6239 Filed 2-20-81; 12:56 pm]

BILLING CODE 4110-35-M

Public Health Service
Centers for Disease Control

Availability of Proposed Biosafety Guidelines for Microbiology and Biomedical Laboratories

By notice in the **Federal Register** on October 17, 1980 (45 FR 69045–69046), the Centers for Disease Control and the National Institutes of Health announced the availability of the draft of "Proposed Biosafety Guidelines for Microbiology and Biomedical Laboratories." This draft, which proposes a national code of practice for laboratories working with microorganisms infectious for humans, has been widely circulated for public review and comment in order to develop a consensus prior to final publication.

To assure adequate input from the broad community of scientists working with infectious agents, the review and comment period will remain open until April 15, 1981.

It is emphasized that his draft publication is a proposed voluntary guideline—not a proposed regulation. It is essential that the guidelines accurately reflect the views of those working in the field. Comments and definitive recommendations for all aspects of the Proposed Guidelines are solicited from individuals and organizations.

Comments and requests for single copies of the Proposed Guidelines should be directed to:

Dr. John H. Richardson, Director, Office of Biosafety, Centers for Disease Control, PHS, HHS, Atlanta, Georgia 30333, Telephone: (404) 329–3883, FTS: 236–3883

or

Dr. W. Emmett Barkley, Director, Division of Safety, National Institutes of Health, PHS, HHS, Building 13, Room 2E45, 9000 Rockville Pike, Bethesda, Maryland 21205, Telephone: (202) 496–1357, FTS: 496–1357.

Dated: February 17, 1981.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 81-6287 Filed 2-24-81; 8:45 am]

BILLING CODE 4110-86-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-81-1060]

Community Development Block Grant Program

AGENCY: Department of Housing and Urban Development, Assistant

Secretary for Community Planning and Development.

ACTION: Notice.

SUMMARY: HUD is issung a Notice of the date for submission of preapplications for applicants in the State of Wisconsin for the Small Cities Program; and of the availability of the criteria to be used by HUD and Wisconsin for selection in the Community Development Block Grant Program for Fiscal Year 1981.

FOR FURTHER INFORMATION CONTACT: James N. Forsberg, Director, Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that in accordance with 24 CFR 570.422 (45 FR 57120–57122, August 27, 1980) and 24 CFR 570.420(h)(2) (45 FR 55979, August 21, 1980), the Department of Housing and Urban Development (HUD) has established the submission date for preapplications for the Small Cities Program Grants for Fiscal Year 1981 for applicants in the State of Wisconsin.

For Fiscal Year 1981, HUD is implementing a demonstration that provides for a substantial state role in the Small Cities selection process, and Wisconsin is one of two States selected to participate in this demonstration.

The State of Wisconsin has developed selection criteria which are substituted for the selection factors for Comprehensive grants (24 CFR 570.424) and the selection factors for Single Purpose grants (24 CFR 570.428). The selection factors and additional information may be obtained by contacting the Department of Development for Wisconsin at the address listed below. The Catalog of Federal Domestic Assistance program number is 14.219. All applications are subject to OMB Circular A–95 requirements.

Applicants are hereby advised to submit their preapplications for Single Purpose and for Comprehensive Grants pursuant to criteria developed for the State of Wisconsin, no earlier than: March 17, 1981 and no later than March 31, 1981. Preapplications shall be submitted to: Department of Development, 123 West Washington Avenue, P.O. Box 7970, Madison, Wisconsin 53707, Attn.: Gail Anderson, Bureau of Community Development Services.

For all applicants, for both metropolitan and nonmetropolitan areas, the earliest and latest date for submission as indicated above shall apply. Preapplications for funding under the Single Purpose and Comprehensive Grant provisions of the Small Cities Program will be accepted only during the designated time period. Preapplications received after the deadline must be postmarked no later than the applicable deadline submission date. Any preapplications postmarked after that date are unacceptable and will be returned.

Issued at Washington, D.C., February 18, 1981.

Donald G. Dodge,

Acting General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 81-6306 Filed 2-24-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona Wilderness Inventory Program; Decisions on Protests to Final Intensive Wilderness Decision on the Overthrust Belt Accelerated Wilderness Inventory

SUMMARY: This notice is to advise the public of my decisions on the protests received on the "Final Intensive Wilderness Decision on the Overthrust Belt Accelerated Wilderness Inventory."

SUPPLEMENTARY INFORMATION:

Background

On February 22, 1980, I announced my Final Intensive Wilderness Inventory Decision on the Overthrust Belt Accelerated Wilderness Inventory. The above notice advised the public of their right to file a protest to my decision. A total of three protests on 14 inventory units was received during the protest period provided.

As a result of the evaluation of information contained in these protests, I am announcing amendments to four inventory unit decisions.

Amended Decisions

The inventory decision amendments are summarized as follows:

AZ–010–114: A additional 8,341 acres were added to the WSA for a total of 24,800 acres.

AZ–010–124: The unit was field checked and determined to meet the qualifications as a WSA. It is established as a WSA of 11,825 acres.

AZ–010–127: This unit was determined to meet the requirements of a WSA. It is established as a WSA of 7,970 acres.

AZ–010–129: An additional 3,263 acres were added to the WSA for a total of 36,696 acres.

Right to Appeal

The publication of this **Federal Register** notice starts a 30-day appeal period. This appeal period is for each of the four separate amendments to the February 22, 1980 wilderness inventory decision only—no other part of Arizona's Final Intensive Wilderness Inventory is open to appeal.

An appeal from these decisions must be taken to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations in 43 CFR Part 4, Subparts A, B, and E. However, if an appeal is taken, the Notice of Appeal must be filed in this office (not the Board), so that the permanent document file(s) can be transmitted to the Board. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must be served on the Field Solicitor, U.S. Department of the Interior, 2080 Valley Bank Center, Phoenix, Arizona 85073 not later than 15 days after filing the document. To avoid summary dismissal of the appeal, there must be strict compliance with the regulations.

Clair M. Whitlock,

State Director.

February 12, 1981.

[FR Doc. 81-6224 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-84-M

[I-17090]

Idaho; Offer of Lands

1. Pursuant to the provisions of the Act of May 31, 1962 (76 Stat. 89), the following lands, found upon survey to be omitted lands of the United States, will be offered for Sale:

Boise Meridian, Idaho

T. 2 S., R. 35 E.,

Sec. 33, Lots 12, 13,and 14;

Lot 15 (portion described as follows):

All of Lot 15 except that portion which lies within the following described area: State Highway 39 on the north, the mean high water mark on the right bank of the Snake River on the south, the Union Pacific on the east and on the west, a line connecting the following points: The right bank of the river, the centerline of the old concrete approach ramp for the old (now gone) Snake River bridge, and the intersection of the centerline of the black-topped highway access pad with the south side of State Highway 39.

The area aggregates approximately 105.65 acres, including acreages in all road rights-of-way.

2. The plat of survey was placed in the Bureau of Land Management open files on August 8, 1960.

3. Persons claiming a preference right in accordance with the provisions of the Act, must file with the Idaho State Office, Federal Building, Box 042, 550

West Fort Street, Boise, Idaho 83724, before May 1, 1981, a notice of their intention to apply to purchase all or part of the lands as qualified preference right claimants.

4. The Act grants a preference right to purchase the above lands to any citizens of the United States (including corporations, partnerships, firms, or other legal entities having authority to hold title to lands in the State of Idaho) who, in good faith, under color of title or claiming as a riparian owner has, prior to March 30, 1961, placed valuable improvements upon, reduced to cultivation, or occupied any of the lands so offered for sale, or whose ancestors or predecessors in interest have taken such action.

5. The lands are determined to be suitable for sale and will be sold at their fair market value subject to:

(a) Qualified preference right claims.

(b) A reservation to the United States of all the coal, oil, gas, shale, phosphate, potash, sodium, native asphalt, solid and semi-solid bitumen and bituminous rock, including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried, together with the right to prospect for, mine, and remove the same.

(c) A reservation to the United States of up to 100 feet along the river front for public access.

Rex D. Colton,

Chief, Division of Technical Services.

[FR Doc. 81-6225 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-84-M

Montana Wilderness Inventory; Miles City and Lewistown Districts; Intensive Inventory Decisions Protested and Decisions in Effect

February 17, 1981.

The final intensive wilderness inventory decisions for the Miles City and Lewistown Districts were announced in the **Federal Register** of November 14, 1980 (pages 75589–75590). The decisions were subject to a 45–day protest period ending December 31, 1980. The decisions concerning specific inventory units listed below have been formally protested to the Montana State Director and are not final. All the other decisions which have not been protested, become final on February 27, 1981.

A. The State Director's final decisions to designate the following inventory units as wilderness study areas have been protested:

Unit No.	Name	Acreage
Lewiston District:		
MT-067-207	Big Horn Tackon	4,470
MT-068-231	Two Calf Creek	8,500
MT-068-244	Dog Creek South	5,230
MT-066-250	Stafford	4,700
MT-066-253	Ervin Ridge	12,000
MT-066-256	Cow Creek	36,000
MT-065-266	Antelope Creek	9,400
MT-065-278	Burnt Lodge/Sage Creek	15,000
Total		95,500
Miles City District:		
MT-024-675	Bridge Coulee	5,650
Total		5,650
Grand total		101,150

B. The State Director's final decisions to eliminate the following inventory units, or portions of units, from further wilderness consideration have been protested. The Wilderness Interim Management Policy will continue to apply for these areas until the protests and any subsequent appeals are resolved.

Unit No.	Name	Acreage
Lewistown District:		
MT-067-205	Burnt Timber Canyon	4,600
MT-068-245	Chimney Bend	12,500
MT-068-246	Woodhawk	9,100
MT-066-249	The Wall	6,700
MT-060-250	Stafford	2,700
MT-060-253	Ervin Ridge	8,400
MT-066-255	Bullwhacker	10,000
MT-060-256	Cow Creek	14,500
MT-065-266	Antelope Creek	5,700
MT-064-330	Caravan	5,580
MT-064-336	Marsh Hawk Hills	78,340
Total		158,120
Miles City District:		
MT-027-701	Zook Creek	269
MT-027-715	Deadhorse Badlands	25,890
MT-027-736	Tongue River Breaks Contiguity.	285
Total		26,444
Grand total		184,564

The Montana State Director will issue written responses to all protests in early March. A **Federal Register** notice announcing protest decisions will be published at that time.

Michael J. Penfold,

State Director.

[FR Doc. 81-6221 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-84-M

Utah; Colorado and Wyoming; Green River-Hams Fork Coal Region; Request for Public Comments and Recommendations for Coal Planning Schedule and for Future Development Plans of Federal Coal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Federal coal mangement regualtions (43 CFR 3400), the Green River-Hams Fork Regional Coal Team will hold a meeting to obtain public comments related to the proposed development of Federal coal in Wyoming and Colorado. The Regional coal team is particularly interested in the existing activities and development plans of the coal industry. It would also like to hear from anyone else who is interested in or concerned about coal development in the Green River-Hams Fork Region. Land use planning is currently underway in the region and Federal coal leasing is scheduled to begin in March, 1984. The region includes Routt, Moffat, and Rio Blanco Counties in Colorado; and portions of Carbon, Uinta, Sweetwater, Lincoln, and Sublette Counties in Wyoming.

The regional coal team will consider information obtained from the public at this meeting to identify priorities for land use planning and coal activity planning for the region.

The regional coal team will also discuss other items including USGS coal exploration plans and a Utah International preference right lease application in Colorado.

Anyone who wishes to speak at the meeting is requested to provide written copies of their remarks. Written material will also be accepted in lieu of or in addition to any oral presentation.

DATE: The regional coal team will meet at 9:00 a.m., on March 31, 1981.

ADDRESS: The meeting will be held in the Century Room of the Cosmopolitan Hotel, 1780 Broadway, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Gerald Magnuson, Alternate Regional Coal Team Chairman (801) 524–5311. Additional written information on planning schedules and areas is available from the Alternate Regional Coal Team Chairman, Bureau of Land Management, Utah State Office, 136 E. South Temple, Salt Lake City, Utah 84111.

Dated: February 17, 1981.

Dean Stepanek,

Acting State Director, Utah State Office.

[FR Doc. 81-6288 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-84-M

Dickinson District Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM).

ACTION: Notice.

SUMMARY: The BLM Dickinson District Advisory Council will meet April 2 to consider the following topics:

1. Tenneco Corporation's proposed Beach-Wibaux coal gasification plant,

which would be located in eastern Montana near the North Dakota border. Coal for the plant would come from that immediate area, including lands in Wibaux County, Montana, and Golden Valley County, North Dakota. Federal coal is interspersed with private coal in these counties.

2. The increasing need for new water sources in southwestern North Dakota.

3. Criteria to be used in selecting which federal coal tracts should be offered for lease in the Fort Union Coal Region, which includes portions of western North Dakota and eastern Montana.

4. Significant issues related to BLM resource and land management that should be considered in the McKenzie-Williams and Southwest planning areas of North Dakota. The BLM Dickinson District is in the initial stages of preparing management framework plans (MFPs) for these areas. The Southwest MFP will include Billings, Slope, Adams, Bowman, Hettinger, and Grant counties. The McKenzie-Williams MFP will cover McKenzie and Williams counties.

DATE: The meeting will be held April 2, 1981, between 9:00 a.m. and 4:00 p.m. (Mountain Standard Time).

ADDRESS: The meeting will be held in the Community Room of the Gate City Saving and Loan Association Building, 204 Sims Street, Dickinson, North Dakota.

FOR FURTHER INFORMATION CONTACT: Charles E. Steele, Dickinson District Manager, Bureau of Land Management, P.O. Box 1229, Dickinson, North Dakota 58601.

SUPPLEMENTARY INFORMATION: The Council is chartered to provide citizen advice to the Dickinson District Manager in matters concerning BLM-administered lands and resources.

The meeting is open to the public. Any person may attend and/or file a written statement. Time periods for questions and comments from the public will be set aside, if needed, during both the morning and afternoon sessions. Written statements can be mailed to the Dickinson District Manager at the above address.

Kenneth H. Burke,

Acting District Manager.

[FR Doc. 81-6345 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Draft National Waterfowl Management Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Service announces availability for public comment of a draft National Waterfowl Management Plan. The purpose of the plan is to guide the efforts of State and Federal agencies who share a public interest in the welfare of waterfowl. The document sets forth national goals, objectives, policies and strategies for the cooperative management of waterfowl in the United States, and provides a basis for developing detailed management plans for each of the four waterfowl flyways. It contributes to the eventual development of a North American waterfowl management plan.

DATES: Comments on this draft plan will be accepted until May 1, 1981.

ADDRESSES: Send comments to: Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Copies of the draft plan may be obtained from: U.S. Fish and Wildlife Service, Office of Migratory Bird Management, 1717 H Street, N.W. (Room 555), Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: George K. Brakhage, Assistant Chief, Office of Migratory Bird Management at (202) 254-3207.

Dated: February 19, 1981.

F. Eugene Hester,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-6290 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-55-M

Final Environmental Assessment on Subsistency Hunting of Migratory Birds in Alaska and Canada

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: the Service has completed a final environmental assessment of a proposal to seek amendments to migratory bird treaties with Canada, Mexico, and Japan that would make them consistent with the 1976 migratory bird treaty with the Soviet Union in regard to subsistency hunting. The amendments would provide a basis for legalizing the managing subsistence hunting of migratory birds in Alaska and Canada, consistent with the intent of Congress.

The consequences of the proposed action, and alternative of no action or elimination of most subsistence hunting of migratory birds, are described and discussed. Proper management of subsistence hunting is considered essential for the well being of migratory birds, especially waterfowl, and the residents of rural areas in Alaska and Canada who depend on migratory birds as a traditional and important source of food.

The purpose of this notice is to inform the public of the availability of the environmental assessment and that the Director of the Fish and Wildlife Service has made a "Finding of No significant Impact" with respect to the proposed action.

ADDRESSES: The environmental assessment is available on request from U.S. Fish and Wildlife Service, Office of Migratory Bird Management, 1717 H Street, NW (Room 555, Department of the Interior), Washington, D.C. 20240 *or* Migratory Bird Coordinator, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503. Anyone interested in commenting on these matters should write to Regional Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management at (202) 254-3207, *or* Wilbur N. Ladd, Jr., Migratory Bird Program Coordinator at (907) 276-3800.

Dated: February 19, 1981.

F. Eugene Hester,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-6241 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Availability of Study and Notice of Public Hearing; Environmental Assessment for Greenbelt Park Development Concept Plan

The National Park Service has prepared an environmental assessment for the Greenbelt Park Development Concept Plan. This assessment has been prepared to direct management and use of Greenbelt park in a manner that is consistent with its legislative purpose and NPS management objectives.

The assessment includes: a description of the environment, a description of alternatives, an assessment of the environmental effects and consequences of each alternative and comparative cost of implementation.

A public meeting on this study will be held on March, 6, 1981 at 7:30 p.m. in the Auditorium of Maryland National Capital Park and Planning Commission Headquarters, 6600 Kenilworth Avenue, Riverdale, Maryland.

Written comments on the environmental assessment are invited

and will be accepted until April 6, 1981. Written comments should be sent to: Superintendent, Catoctin Mountain Park, Thurmont, Maryland 21788.

Copies of the environmental assessment are available by writing to the above address or by calling Grenbelt Park (301) 344–3948.

Dated: Feburary 17, 1981.

Manus J. Fish, Jr.

Regional Director, National Capital Region.

[FR Doc. 81-6323 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-70-M

General Management Plan and Wilderness Recommendation for Cumberland Island National Seashore, Georgia; Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, has prepared a Final Environmental Impact Statement (FEIS) for the proposed General Management Plan and Wilderness Recommendation for Cumberland Island National Seashore, Georgia.

The FEIS discusses the development of visitor facilities on the island and mainland, establishment of visitor programs and use levels, generation of resource management policies and the designation of 20,020 acres for wilderness and potential wilderness.

The nine alternatives considered are (A) no action; (B) Pine Tree mainland site; (C) transportation alternative; (D) St. Marys permanent mainland site; (E) Fernandina Beach mainland site; (F) other mainland sites; (G) larger Point Peter site, (H) wilderness north of Plum Orchard; and (I) other subjects considered: vistor transportation, concessions, bicycling, horseback riding, boat shuttle service from Plum Orchard to Cumberland Wharf, primitive campgrounds, and water and sewer services.

A limited number of copies are available upon request to:

Superintendent, Cumberland Island National Seashore, P.O. Box 806, St. Marys, Georgia 31558, Telephone (912) 882–4335/36

Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, Telephone (404) 221–5835, FTS: 242–5835.

Public reading copies will be available for review at the following locations as well as the two above locations:

St. Marys Library, 604 Osborne Street, St. Marys, Georgia 31558, Telephone (912) 882–4800

Arthur William Smith Memorial Library, Atlanta Public Library, 972 Alpharetta Street, Roswell, Georgia 30075, Telephone (404) 993–6511

Atlanta Public Library at Central, 1 Margaret Mitchell Square, NW., Atlanta, Georgia 30303, Telephone (404) 688–4636 (Ivan Allen Department)

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Street, NW., Washington, D.C. 20240, Telephone (202) 343–6843.

Dated: February 9, 1981.

C. W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 81-6322 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-70-M

Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, purposes to negotiate a concession contract with Rough Canyon Marina, 1144, Inc., authorizing it to provide marina facilities and services for the public at Amistad Recreation Area, Texas, for a period of five (5) years from January 1, 1982, through December 31, 1986.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment and finding of no significant impact may be reviewed in the Southwest Regional Office, 1100 Old Santa Fe Trail, Santa Fe, New Mexico, 87501.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1981, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision in effect grants Rough Canyon Marina, 1144, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Rough Canyon Marina, 1144, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Rough Canyon Marina, 1144, Inc., (as determined by the Secretary) is submitted, Rough Canyon Marina, 1144, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Rough Canyon Marina, 1144, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice.

Any proposal, including that of the existing concessioner, must be post marked or hand delivered on or before March 30, 1981 to be considered and evaluated.

Interested parties should contact the Regional Director, Southwest Regional Office, 1100 Old Santa Fe Trail, Santa Fe, New Mexico, 87501, for information as to the requirements of the proposed contract.

Dated: February 12, 1981.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 81-6320 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-70-M

Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Chisos Remuda authorizing it to provide saddle horse rental and guide service for the public at Big Bend National Park for a period of five (5) years from January 1, 1982, through December 31, 1986.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment and finding of no significant impact may be reviewed in the Southwest Regional Office, 1100 Old Santa Fe Trail, Santa Fe, New Mexico 87501.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1981,

and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision in effect, grants Chisos Remuda, as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract if, thereafter, the proposal of Chisos Remuda is substantially equal to others received. In the event a responsive proposal superior to that of Chisos Remuda (as determined by the Secretary) is submitted, Chosos Remuda will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Chisos Remuda. The Secretary will consider and evaluate all proposals received as a result of this notice.

Any proposal, including that of the existing concessioner, must be post marked or hand delivered on or before March 30, 1981 to be considered and evaluated.

Interested parties should contact the Regional Director, Southwest Regional Office, 1100 Old Santa Fe Trail, Santa Fe, New Mexico 87501, for information as to the requirements of the proposed contract.

Dated: February 12, 1981.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 81-6321 Filed 2-24-81; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a connon carrier over irregular except as otherwise noted.

Motor Carriers of Property

Notice No. F-97

The following applications were in region 4. Send protests to: Interstate Commerce Commission; Complaint and Authority Branch; P.O. Box 2980, Chicago, IL 60604.

MC 124408 (Sub-4-2TA), filed February 5, 1981. Applicant: THOMPSON BROS., INC., P.O. Box 1283, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. (1) *Household cleaning products, water purifying compounds* and *dry acids;* (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of commodities listed in (1) above, between the facilities of Hilex, Division of Purex Corporation, at Eagan and St. Paul, MN, on the one hand, and, on the other, points in ND, SD, WI, IA and IL. An underlying ETA seeks 120 days authority. Supporting shipper: Hilex Div. of Purex Corporation, 990 Apollo Road, Eagen, MN 55121.

MC 152082 (Sub-4-2TA), filed February 6, 1981. Applicant: R. C. SERVICE, INC., P.O. Box 823, Bensenville, IL 60106. Representative: Elaine M. Conway, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. *Contract, irregular: Printed matter* from Nashville, TN to points in OH, moving under continuing contract with Newsweek, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Newsweek, Inc., 444 Madison Avenue, New York, NY 10022.

MC 140820 (Sub-4-3TA), filed February 6, 1981. Applicant: A & A TRANSPORT, INC., 2996 N. Illinois 71, Ottawa, IL 61350. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Materials and supplies used in the manufacture of glass products,* from points in IN to LaSalle and Livingston Counties, IL. Supporting shipper: Thatcher Glass Manufacturing Company, P.O. Box 265, Elmira, NY 14902.

MC 150798 (Sub-4-6TA), filed February 5, 1981. Applicant: CKR TRANSPORT LTD., P.O. Box 599, Elmhurst, IL 60126. Representative: D. R. Beeler, 1261 Columbia Avenue, Franklin, TN 37064. *(1) Electrical appliances; (2) Materials, equipments, and supplies used in the manufacture, sale, and distribution of electrical appliances* between the facilities of Oster—Division of Sunbeam Corp. in TN and WI on the one hand and points in the U.S. on the other. An underlying ETA seeks 120 days authority. Supporting shipper: Oster—Division of Sunbeam Corp., 5055 N. Lydell Avenue, Milwaukee, WI 53217.

MC 141403 (Sub-4-1TA), filed February 5, 1981. Applicant: ROBERT RUPPRECHT d.b.a. REPCO, 900 North Watertown Road, P.O. Box 89, Jefferson, WI 53549. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. (1) *Malt beverages* from Milwaukee and LaCrosse, WI, Peoria, IL; Columbus, OH; and Frankenmuth, MI to Calumet, MI; (2) *wine* from Flint and Mount Clemens, MI to Calumet, MI; and (3) *crushed cartons* from Calumet, MI to points in WI. Supporting shipper: Peterline Bros. Co., U.S. Highway 41, Calumet, MI 49913.

MC 58522 (Sub-4-1TA), filed February 6, 1981. Applicant: RIVER TRAILS TRANSIT LINES, INC., Highway 20, West, Galena, IL 61036. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Contract: Irregular: *Passengers and their baggage,* in round-trip charter and special operations beginning and ending at points in IL, IA, and WI and extending to points in the U.S. (except AK and HI) under continuing contract(s) with Tri-State Tours, Inc. Supporting shipper: Tri-State Tours, Inc., P.O. Box 307, Galena, IL 61036.

MC 147264 (Sub-4-9TA), filed February 5, 1981. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Ave., Muncie, IN 47304. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Food and related products* from LaPorte County, IN to points in AR, IL, IA, KS, KY, LA, MN, MS, MO, TN and TX. Supporting shipper: American Home Products Division, American Home Products Corp., 685 Third Ave., New York, NY 10017.

MC 153664 (Sub-4-1TA), filed February 5, 1981. Applicant: DAVID A. LUNDEEN, d.b.a. FARGO FREIGHT

TERMINAL & WAREHOUSE, 1445 5th Avenue North, P.O. Box 1828, Fargo, ND 58107. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract* irregular: *Such commodities as are dealt in, or used by agricultural and truck equipment dealers and manufacturers (except in bulk, in tank vehicles),* from St. Paul, MN to Fargo, ND under contract(s) with International Harvester. An underlying ETA seeks 120 days authority. Supporting shipper: International Harvester Company, 767 Eustis Street, St. Paul, MN.

MC 128648 (Sub-4–3TA), filed Febraury 4, 1981. Applicant: TRANS-UNITED, INC., 425 West 152nd Street, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract* Irregular: Metal products, from the facilities of Allmetal, Inc. at Bensenville, IL to the facilities of Allmetal, Inc. at Columbus, OH, under continuing contract(s) with Allmetal Inc., of Bensenville, IL. Supporting shipper: Allmetal, Inc., 636 Thomas Drive, Bensenville, IL 60106.

MC 153646 (Sub-4–1TA), filed February 4, 1981. Applicant: DONALD L. YODER, d.b.a. YODER TRUCKING, G–5181 Dania St., Flint, MI 48504. Representative: Bruce A. Newman, 1000 Beach Street, Flint, MI 48502. *Contract* Irregular: *Petroleum lubricants and related products* from Detroit, MI to points in the U.S. under continuing contract with Metalworking Lubricants Company. Supporting Shipper: Metalworking Lubricants Co. 6785 Telegraph Road, Birmingham, MI 48010.

MC 153706 (Sub-4–1TA), filed February 4, 1981. Applicant: B&H TRUCKING CO., 3603 Miles Rd., Stanton MI 48888. Representative: Thomas E. Bivins, 10871 Montcalm Ave., Greenville, MI 48838. *Contract:* Irregular, *Beer* between Milwaukee, WI and points in Ionia and Montcalm Counties MI and between Fulton NY and points in Ionia and Montcalm Counties MI. Underlying ETA seeks 120 day authority. Supporting shipper: Paul Drake Dist. Inc. 420 State St. Greenville, MI 48838.

MC 95876 (Sub-4–14TA), filed February 4, 1981. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Street, St. Cloud, MN 56301. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. *Electrodes;* from Hickman, KY; Morganton, NC; Niagra, Falls, NY; and Columbia and Memphis, TN to Baytown, Houston, Jewett and Lone Star and Midlothian, TX Supporting Shipper: Nucor Steel, 4425 Randolph Road, Charlotte, NC 28211.

MC 15975 (Sub-4–21TA), filed February 4, 1981. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *General commodities,* with the usual exceptions, between the facilities of Vitex/American Div. of Diamond Shamrock at or near St. Louis, MO, on the one hand, and, on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Vitex/American Div. of Diamond Shamrock, 10616 Trenton, St. Louis, Mo 63132.

MC 143699 (Sub-4–2TA), filed February 4, 1981. Applicant: QUALITY CONTRACT CARRIERS, INC., 1009 West Edgewood Avenue, Indianapolis, IN 46217. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Contract irregular. Such commodities as are dealt in or used by manufacturers and distributors of books, catalogues, directories, and printed matter* from Crawfordsville, IN to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IA, KS, KY, LA, MN, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, and WY (under continuing contract(s) with R. R. Donnelley & Sons Company). Supporting shipper: R. R. Donnelley & Sons Company, 1009 Sloan Street, Crawfordsville, IN 42933.

MC 148380 (Sub-4–10), filed February 4, 1981. Applicant: CRESCO LINES, INC., 13900 South Keeler Avenue, Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Iron and steel articles, and materials, equipment and supplies* used in the manufacture and distribution of iron and steel articles (except commodities in bulk), between points in Belmont County, OH, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX, under contract with Picoma Industries, Inc. Supporting shipper: Picoma Industries, Inc., P.O. Box 488, Martins Ferry, OH 43935.

MC 118612 (Sub-4–6TA), filed February 4, 1981. Applicant: COLUMBIA TRUCKING, INC., 700 131st Place, Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601. *Hot asphalt, in bulk, in tank vehicles.* From Detroit, MI to Summit, IL. Supporting shipper: Trumbull Asphalt Division of Owens-Corning Fiberglas Corporation, 59th & Archer Road, Summit, IL 60501.

MC 144214 (Sub-4–1TA), filed February 4, 1981. Applicant: ENERGY EXPRESS, INC., 2101 Monon Avenue, New Albany, IN 47150. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract* irregular: *Building materials,* from Harvey, IL, and Philadelphia, PA, to Hialeah, FL, and from Hialeah, FL, to New Albany, IN. Restricted to service to be performed under continuing contracts with Florida Pipe & Nipple Manufacturing Company, Inc. Supporting shipper: Florida Pipe & Nipple Manufacturing Company, Inc., 575 West Eighteenth Street, Hialeah, FL.

MC 107295 (Sub-4–26TA), filed February 4, 1981. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). *General commodities* (except Class A and B explosives and household goods as defined by the Commission) between points in AL, AR, DE, DC, FL, GA, IL, IN, KY, LA, MD, MS, MO, NJ, NC, OH, OK, PA, SC, TN, TX, VA and WV. Restricted to traffic originating at or destined to the Lowes Company, Inc. Supporting shipper: Lowe's Companies, Inc., Highway 268 East, P.O. Box 1111, North Wilkesboro, NC 28656.

MC 145454 (Sub-4–5TA), filed February 4, 1981. Applicant: SOUTHERN REFREGERATED TRANSPORTATION COMPANY, INC., 7336 West 15th Avenue, Gary, IN 46406. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Foodstuffs and materials, equipment and supplies used in the manufacture, distribution and processing of foodstuffs,* between Cedartown, GA and Plainfield, IL, 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 Zartic Frozen Meats & Seafoods, Inc. Supporting shipper: Zartic Frozen Meats & Seafoods, Inc., 808 West Avenue, Cedartown, GA 30125.

MC 145454 (Sub-4–6TA), filed February 3, 1981. Applicant: SOUTHERN REFREGERATED TRANSPORTATION COMPANY, INC., 7336 West 15th Avenue, Gary, IN 46406. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Contract irregular: Such commodities as are used or dealt in by wholesale or retail chain grocery and food business houses,* from points in and east of ND, SD, NE, KS, OK, and TX to points in IL under a contract or continuing contracts with Dominick's Finer foods, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Dominick's Finer Foods, Inc., 555 Northwest Avenue, Northlake, IL 60164.

MC 142291 (Sub-4–1TA), filed February 4, 1981. Applicant: MDI, INC., 6202 Concord Blvd. East, Inver Grove

Heights, MN 55075. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Hazardous waste materials*, between points in Hennepin, Ramsey, Dakota, Scott, Washington, Anoka and Carver Counties, MN, on the one hand, and, on the other hand, points in the U.S. Supporting shippers: Menasha Corporation, 8080 220th Street, P.O. Box V, Lakeville, MN 55044; Continental Machines, Inc., 5505 W. 123rd Street, Savage, MN 55378.

MC 150327 (Sub-4–4TA), filed February 3, 1981. AMANON, INCORPORATED, 38294 Rickham Court, Westland, MI 48185. John S Barbour, 2711 East Jefferson, Suite 202, Detroit, MI 48207. Contract irregular: *Prefabricated metal panelling, paint finishing equipment, materials and supplies used in the manufacture, sale distribution and erection thereof.* Between shipper's facilities at or near Detroit, MI on the one hand, and on the other hand, all points in the U.S., except AK HI and MI, under continuing contract(s) with Walcon Corporation, 4375 Second, Ecourse, MI 48229.

MC 153883 (Sub-4–1TA), filed February 4, 1981. Applicant: HARNIC TRUCKING, INC., an Indiana Corporation, 3340 Calumet Ave., Hammond, IN 46320. Representative: Philip A. Lee, 120 W. Madison St. Suite 618, Chicago, IL 60602. Contract irregular: *Bakery goods, Cereals, Flour, Cake Mix, Frosting Spread and Mix, and other commodities used in the manufacture thereof,* between the General Mills facilities within the Chicago Commercial Zone, on the one hand, and, on the other, points and places throughout the United States. Supporting shipper: General Mills, Inc., 10459 Muskegon, Chicago, IL 60607.

MC 13665 (Sub-4–16TA), filed February 4, 1981. Applicant: WHITEFORD TRUCK LINES, INC., 640 W. Ireland Road, South Bend, IN 46680. Representative: Donald W. Smith P.O. Box 40248, Indianapolis, IN 46240. (1) *Lead and lead oxide* and (2) *Materials, equipment and supplies used in the manufacture of commodities named in (1) above,* between the facilities of Oxide & Chemical Corp. at or near Brazil, IN on the one hand, and on the other, points in and east of ND, SD, NE, CO, and NM. Restricted to traffic originating at or destined to the facilities of Oxide & Chemical Corporation. Supporting shipper: Oxide & Chemical Corporation, 5726 Professional Circle, Indianapolis, IN.

MC 150644 (Sub-4–2TA), filed February 4, 1981. Applicant: GARY L. SODERBERG and LEROY E. SODERBERG, d.b.a. SODERBERG FARMS, Route 1, Townline Road, Beloit, WI 53511. Repreentative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. *Fertilizer and fertilizer ingredients,* in bulk, in tank vehicles, from Lemont, Amboy, and Fulton, IL and Clinton, and Dubuque, IA, to Rock County, WI. Supporting shippers: Hodge Brothers, Route 3, Read Rd., Janesville, WI 53545; Luety Agri-Systems, Route 1, Philhower Rd., Beloit, WI 53511.

MC 133566 (Sub-4–14TA), filed February 4, 1981. 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. *Foodstuffs (except commodities in bulk),* from the facilities of Lykes Pasco Packing Company at or near Dade City, FL to points in the United States in and east of ND, SD, CO, OK and TX. Supporting shipper: Lykes Pasco Packing Company, P.O. Box 97, North Highway 301, Dade City, FL 33525.

MC 145481 (Sub-4–7), filed February 4, 1981. Applicant: COYOTE TRUCK LINE, INC., 501 Sam Ralston Road, Lebanon, IN 46052. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th Street, Denver, CO 80202. *General commodities* (except Classes A and B explosives), (1) from Chicago, IL to Tulsa and Oklahoma City, OK, and (2) from Dallas, TX to Atlanta, GA; Greensboro, NC; Jacksonville, FL; and Columbus, OH, retricted to traffic originating at or destined to the facilities of Terminal Freight Cooperative Association or its member affiliates. An underlying ETA seeks 120 days operating authority. Supporting shipper: Terminal Freight Cooperative Association, 1430 Branding Lane, Downers Grove, IL 60515.

MC 150248 (Sub-4–3TA), filed February 9, 1981. Applicant: BERNIE BERGER, d.b.a. BERGER BROS. TRUCKING, Box 20, Rural Route 4, Mandan, ND 58554. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Contract:* Irregular: *(1) Manufactured farm implements, parts and attachments for manufactured farm implements, and fabricated metal articles, and (2) materials, equipment and supplies used in the manufacture and distribution of those commodities described in (1) above,* between points in the U.S. under continuing contracts with Rugby Manufacturing Co., Inc. of Rugby, ND. Supporting shipper: Rugby Manufacturing Co., Industrial Park, P.O. Box 672, Rugby, ND 58368.

MC 40978 (Sub-4–12TA), filed February 9, 1981. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 South Business Drive, Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Furniture and fixtures,* between points in IA, IL, IN, MI, MN, MO, OH, and WI. Supporting shipper(s): There are 21 supporting shippers.

MC 124078 (Sub-4–55TA), filed February 9, 1981. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Cement clinker,* from West Des Moines, IA to points in PA (except Nazareth). An underlying ETA seeks 120 days authority. Supporting shipper: Chem Tech Services, 4251 Main Street, Skokie, IL 60076.

MC 151181 (Sub-4–2TA), filed February 9, 1981. Applicant: DAKOTA TRANSPORT, INC., Box 115, Fort Pierre, SD 57532. Representative: Michael F. Morrone, 1150 17th St., N.W., Washington, DC 20036. *Contract:* Irregular. *Beer empty containers and related advertising and promotional materials* between points in SD, on the one hand, and on the other, points in MN, MO, TX and WS. An underlying *ETA seeks 120 days authority. Supporting shipper:* Ellwein Bros., Inc., 401 West Dakota, Pierre, SD 57501.

MC 124078 (Sub-4–56TA), filed February 9, 1981. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard. H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *(1) Mineral slag (2) Dry bulk sand* from (1) Carrollton, CA to points in AL, MS, and TN and (2) Junction City, GA to points in AL and MS. Supporting shipper: F & S Abrasive Co. Inc., P.O. Box 2012, Birmingham, AL 35201.

MC 106603 (Sub-4–7TA), filed February 10, 1981. Applicant: DIRECT TRANSIT LINES, INC.; 200 Colrain St., SW., Grand Rapids, MI 49508. Representative: John C. Scherbarth, 22375 Haggerty Rd., Northville, MI 48167. *Lumber and particle board* from the port of entry on the International boundry line at Detroit, MI, to pts in MI, IN, IL, OH, KY, TN, NC, WV, VA, MD, and PA. Supporting shipper: MacMillan Bloedel Building Materials, Div of Mac MacMillan Bloedel Limited, c/o J. F. Donovan, 6540 Powers Ferry, Suite 200, Atlanta, GA 30339.

MC 148485 (Sub-4–2TA), filed February 11, 1981. Applicant: EARL P. SMITH, d.b.a. SMITH CARTAGE CO., 104 South Vine Avenue, Marshfield, WI 54449. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425

Odana Road, Madison, WI 53719. *Contract:* Irregular; (1) *caskets, and materials, equipment and supplies* used in the manufacture and distribution of such commodities from points in IN to points in WI; and (2) *heating units, and materials, equipment and supplies* used in the manufacture and distribution of such commodities between Wisconsin Rapids, WI on the one hand, and, on the other, points in IA, IL, IN, KS, MO, NE and OH. Restricted to transportation performed under a continuing contract(s) with Master-Craft Casket, Inc., and Preway, Inc. An underlying ETA seeks 120 days authority. Supporting shippers: Master-Craft Casket, Inc., Box 127, Ladysmith, WI 54848; and Preway, Inc., 1430 2nd Street, North, Wisconsin Rapids, WI 54494.

MC 153995 (Sub-4–1TA), filed February 11, 1981. Applicant: U.C.I. TRUCKING, INC., 3050 No. Rockwell Ave., Chicago, IL 606018. Representative: Frererick W. Smart, 501 Holly Ave., Elmhurst, IL. 60126. *Such commodities as are dealt in by Catalog, retail, discount and home improvement stores, and materials, supplies and equipment used in the manufacture of such commodities,* between all points in the contiguous 48 States. Supporting shipper: United Coatings, Inc., 3050 N. Rockwell Ave., Chicago, IL 60618.

MC 149457 (Sub-4–8TA), filed February 10, 1981. Applicant: JWI TRUCKING, INC., 8100 North Teutonia Avenue, Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Such merchandise as is dealt in by retail department stores and mateials, equipment and supplies used or useful in the manufacture, sale or distribution of the involved commodities,* between Portland, OR and points in the Portland, OR commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 120 days. Supporting shipper: Meier & Frank, 621 South West 5th Avenue, Portland, OR 97204.

MC 136161 (Sub-4–1TA), filed February 11, 1981. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., NW., Washington, DC 20001. (1) *Carpet strip, adhesives, sealants, stains, solvents, preservatives, plastic carpeting, and installation supplies* from the facilities of Roberts Consolidated Industries at or near Conyers, GA, to points in the U.S. in and East of TX, OK, MO, IA, and MN; (2) *materials, equipment, and supplies* from points in and east of TX, OK, MO, IA, and MN to the facilities of Roberts Consolidated Industries at or near Conyers, GA; and (3) *imported nails* from Savannah, GA to Conyers, GA. Supporting shipper: Roberts Consolidated Industries, Inc., 600 N. Baldwin Park Blvd., City of Industry, CA 91749.

MC 152917 (Sub-4–2TA), filed February 11, 1981. Applicant: J. HOOVER ENTERPRISES, INC., d.b.a. GO-FER EXPRESS, 903 East Lincolnway, LaPorte, 46350. Representative: Patrick H. Smyth, Smyth & Guth, P.C., 19 South LaSalle Street, Suite 401, Chicago, IL 60603. *Machinery parts, plastic products, equipment and supplies,* between points in Porter, LaPorte, St. Joseph, Elkhart and Marshall Counties, IN, on the one hand, and, on the other, points in OH. Supporting shippers: 1. Modine Manfuacturing Co., 239 Factory Street, LaPorte, IN 46350; 2. Kingsbury Castings, Inc., P.O. Box 639, LaPorte, IN 46350; 3. Chrysler Plastic Products Corp., 500 N. Roeske Avenue, Michigan City, IN 46360; 4. Diedrich Machine Company, 2008 Ohio Street, LaPorte, IN 46350.

MC 105159 (Sub-4–12TA), filed February 11, 1981. Applicant: KNUDSEN TRUCKING, INC., 1320 W. Main St., Red Wing, MN 55066. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. *Foodstuffs;* from Northfield, MN to points in CA, MI, and WA. Supporting shipper: Malt-O-Meal Company, 319 S. Water St., Northfield, MN 55057.

MC 153806 (Sub-4–1), filed February 10, 1981. Applicant: BILL McKEEN TRUCKING LIMITED, 1708 County Road 46, Comber, Ontario, CD N0P 1J0. Representative: W. Walter Travis, P.O. Box 774, Chatham, Ontario, CD N7M 5L1. (1) *Cabinets* between the Canadian-American International boundary at Detroit, MI to points in FL, SC and MC; (2) *Building stone, bricks, marble and overlay* between the Canadian-American International boundary at Detroit, MI to Fl, on the one hand and IN and IL on the other. Supporting shipper: Multi Cabinet Concepts, Comber, Ontario, Canada, and Angelstone, Ltd., Cambridge, Ontario, Canada.

MC 48441 (Sub-4–5TA), filed February 10, 1981. Applicant: R.M.E., INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., NW., Washington, DC 20001. (1) *Carpet strip, adhesives, sealants, stains, solvents, preservatives, plastic carpeting,* and *installation supplies* from the facilities of Roberts Consoidated Industries at or near Conyers, GA, to points in the U.S. in and east of TX, OK, MO, IA, and MN; (2) *materials, equipment, and supplies* from points in and east of TX, OK, MO, IA, and MN to the facilities of Roberts Consolidated Industries at or near Conyers, GA; and (3) *imported nails* from Savannah, GA to Conyers, GA. Supporting shipper: Roberts Consolidated Industries, Inc., 600 N. Baldwin Park Blvd., City of Industry, CA 91749.

MC 150327 (Sub-4–5TA), filed February 10, 1981. Applicant: AMANON, INCORPORATED, 38294 Richman Court, Westland, MI 48185. Representative: John S. Barbour, 2711 E. Jefferson, Suite 202, Detroit, MI 48207. *Contract* Irregular: *Tunneling machinery, equipment and supplies used in the manufacture, sale, distribution and leasing thereof* between all points in the U.S., except AK and HI. Restricted to traffic moving under continuing contract with Carl W. Decker, Inc. Supporting shipper: Carl W. Decker, Inc., 6450 E. McNichols, Detroit, MI 48212.

MC 95876 (Sub-4–16TA), filed February 10, 1981. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. *Iron and steel articles, equipment, materials and supplies,* between Perth Amboy, NJ, on the one hand, and on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Raritan River Steel Company, P.O. Box 309, Perth Amboy, NJ 08862.

MC 153988 (Sub-4–1TA), filed February 10, 1981. Applicant: RYAN TRANSFER & STORAGE CO., 888 Mackubin Street, St. Paul, MN 55117. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Contract,* Irregular: *Rail car sub-assemblies and parts; structural and reinforcing steel; and materials, supplies and equipment used in the manufacture thereof,* between the facilities of the Maxson Corporation, on the one hand, and, on the other, points in the U.S. Supporting shipper: The Maxson Corporation, 500 Como Avenue, St. Paul, MN 55164.

MC 147259 (Sub-4–11TA), filed Feburary 10, 1981. Applicant: CHURCHILL TRANSPORTATION, INC., 2455 24th St., Detroit, MI 48216. Representative: Richard E. VanWinkle, 16901 Van Dam, South Holland, IL 60473. *(1) Fabricated Metal Products, except Ordinance, Machinery or Transportation Equipment, and (2) Rubber or Miscellaneous Plastic Products, and Materials, Equipment and Supplies used in the manufacture and distribution of (1) and (2)* (except

commodities in bulk) between points in OH on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shippers: Alside, Inc., P.O. Box 2010, Akron, OH 44309, and New Fab, Inc., P.O. Box 68, Newton Falls, OH 44444.

MC 127303 (Sub-4–3TA), filed February 10, 1981. Applicant: Zellmer Truck Lines, Inc., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen, Bank Bldg., 666 11th St., NW., Washington, DC 20001. (1) *carpet strip, adhesives, sealants, stains, solvents, preservatives, plastic carpeting, and installation supplies* from the facilities of Roberts Consolidated Industries at or near Conyers, GA, to points in the U.S. in and east of TX, OK, MO, IA, and MN; (2) *materials, equipment, and supplies* from points in and east of TX, OK, MO, IA, and MN to the facilities of Roberts Consolidated Industries at or near Conyers, GA; and (3) *imported nails* from Savannah, GA to Conyers, GA. Supporting shipper: Roberts Consolidated Industries, Inc., 600 N. Baldwin Park Blvd., City of Industry, CA 91749.

MC 153976 (Sub-4–1), filed February 10, 1981. Applicant: EXPRESS FREIGHT SYSTEMS, INC., 501 16th Street, Newport, MN 55055. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk) between Minneapolis, MN, and points in Benton, Stearns and Sherburne Counties, MN, on the one hand, and on the other hand all points in the United States. Supporting shippers: Campion Wholesale, St. Paul, MN; Morris Rifkin and Sons, Inc., South St. Paul, MN; and Sunstar Foods, Inc., South St. Paul, MN, and Landy Packing Company, St. Cloud, MN.

MC 153986 (Sub-4–1), filed February 10, 1981. Applicant: CENTRAL STATES DISTRIBUTION, 501 S. Fourth Street, Van Buren, IN 46991. Representative: Byron Brankle, P.O. Box 47, Van Buren, IN 46991. *Contract:* Irregular, *General commodities* (except those of unusual value, Classes A & B explosives, household goods and commodities in bulk) between points in U.S. (Except AK and HI) Restricted to traffic moving under continuing contract with SCM Corporation. Supporting shipper: SCM Corp., 900 Union Building, Cleveland, OH 44115.

MC 95876 (Sub-4–15TA), filed February 10, 1981. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. *Bentonite clay, lignite, and drilling mud additives,* from points in Phillips County, MT, Big Horn, Sweetwater and Weston Counties, WY, Butte County, SD and Bowman County, ND, to points in KS, LA, NM, OK and TX. Underlying ETA seeks 120 days authority. Supporting shipper: American Colloid Co., P.O. Box 228, Skokie , IL 60077.

MC 128409 (Sub-4–3TA), filed February 10, 1981. Applicant: HAROLD MILLER TRUCKING, INC., P.O. Box 623, Moorhead, MN 56560. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract* irregular: *Sugar,* in bulk, in tank vehicles from the facilities of American Crystal Sugar Company at or near Moorhead, Crookston, and East Grand Forks, MN, and Drayton and Hillsboro, ND, to points in SD, NE, KS, IN, MI, and MO. An underlying ETA seeks 120 days authority. Supporting shipper: American Crystal Sugar, 101 North 3rd St., Moorhead, MN 56560.

MC 150499 (Sub-4–2TA), filed February 10, 1981. Applicant: ENGELS TRUCK SERVICE, INC., R.R. 3 Box 58, Worthington, MN 56187. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, 226 North Phillips Ave., Sioux Falls, SD 57101. *Meats, meat products, and meat by-products,* from points in SD, NE, IA, MN and WI to points in King County, WA. Supporting shipper: Cudahy Foods Company, 2203 Airport Way St., Seattle, WA 98124.

MC 150629 (Sub-4–2TA), filed February 10, 1981. Applicant: C.D. GAMMON COMPANY, 531 Winthrop St., Addison, IL 60101. Representative: William D. Brejcha, Ten LaSalle St. No. 1600; Chicago, IL 60603. *Contract* Irregular: Such commodities as are manufactured or distributed by manufacturers and distributors of ferrous and non-ferrous metals, between points in the U.S. restricted to traffic moving under continuing contract(s) with Inryco, Inc. of Melrose Park, IL. Supporting shipper: Inryco, Inc., 4101 W. Burnham St., Milwaukee, WI 53201.

MC 108453 (Sub-4–5TA), filed February 10, 1981. Applicant: G & A TRUCK LINE, INC., 404 West Peck Ave., White Pigeon, MI 49099. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract* Irregular: *General commodities (except in bulk)* between MI and all points in the U.S. (except AK and HI) under a continuing contract with Simplex Industries, Inc. Supporting shipper: Simplex Ind., Inc., Constantine, MI 49042.

MC 103993 (Sub-4–27TA), filed February 10, 1981. Applicant: MORGAN DRIVE–AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). *Motor vehicles* between St. Joseph County, MI and Randolph County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shipper: West Leasing Company Inc., Tallmadge, OH.

MC 153973 (Sub-4–1), filed February 10, 1981. Applicant: SPARTON SERVICE TRANSPORTATION, INC., 1501 W. Pershing Rd., Chicago, IL 60609. Representative: Themis N. Anastos, 120 West Madison St., Chicago, IL 60602. *Paint, varnish, solvents, cleaning compounds, wax, detergents, chemicals; and materials, equipment and supplies used in the manufacture and distribution of the foregoing commodities.* Also, *such commodities as are dealt in or used by producers and distributors of paper and plastic products; and equipment and supplies used in the manufacture and distribution thereof,* between points in IL, MI, WI, MN, OH, IA and IN, under continuing contracts with Enterprise Companies, Wheeling, IL, and Continental Group, Inc., Bondware Division, Rolling Meadows, IL.

MC 153797 (Sub-4–1TA), filed February 10, 1981. Applicant: C G & S TRUCKING CO., P.O. Box 67, Wood River, IL 62095. Representative: Joseph E. Rebman, 314 North Broadway, 13th Floor, St. Louis, Missouri 63102. *Petroleum, petroleum products and petrochemicals in tank vehicles,* between points in the U.S. (except AK and HI). Supporting shippers: There are four (4) supporting shippers.

MC 133689 (Sub-4–64), filed February 10, 1981. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs,* from Portland and Geneva, IN to points in and east of ND, SD, NE, KS, OK, and TX. an underlying ETA seeks 120 days. Supporting shipper: Naas foods, Inc., P.O. Box 1029, Portland, IN 47371.

MC 150049 (Sub-4–6), filed February 10, 1981. Applicant: JAMES RESSLER d.b.a., JIM RESSLER TRUCKING, 300 East Turnpike Avenue, Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. *Contract:* Irregular *Lumber, Lumber Products, Wood Products and Lumber Mill Products,* (1) From CA, WA, OR, ID, MT, to MN, ND, SD, WI, IA, IL, and NE, under contract with Superior Lumber Company and Gibbs

Lumber, and (2) From MI, WI, and MN, to WA, OR, ID, MT, CA, and UT, under contract with Brady International Hardwood Co. An underlying ETA seeks 90 day authority. Supporting shipper(s): Brady International Hardwood Co., Tacoma, WA, Superior Lumber Company, St. Paul, MN; and Gibbs Lumber, Lake Elmo, MN.

MC 146728 (Sub-4-7), filed February 10, 1981. Applicant: GOLDEN BROS., INC., 234 E. McClure St., Kewanee, IL 61443. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Iron and Steel Articles* between points in the U.S. Supporting shipper: Dade Steel Sales Corp., 5280 NW 78 Ave., Miami, FL; William R. Hubbell Steel Corp., 11355 Franklin Ave., Franklin Park, IL 60131.

MC 145095 (Sub-4-3TA), filed February 9, 1981. Applicant: POWER FUELS, INC., P.O. Box 1369, Minot, ND 58701. Representative: F. J. Smith, Suite 307, 420 North 4th Street, Bismarck, ND 58501. (1) *Liquid molten sulfur in bulk tank vehicles* to, from, and between all points in ND, SD, MT, MN and WI. (2) *Crude oil and anhydrous ammonia in bulk tank vehicles* to, from, and between all points in MT and ND. Supporting shippers: Cominco American, Inc., 205 NW 25th St., Minot, ND 58701. Border States Paving, Inc., Box 3162, Fargo, ND 58108. Murphy Oil Corp., 200 Jefferson Ave., El Dorado, AR 71730.

MC 135185 (Sub-4-5TA), filed February 9, 1981. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 66, 52275 U.S. Highway 31 North, South Bend, IN 46624. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Contract* Irregular: *Such commodities as are dealt in by rubber processors*, between South Bend, IN, on the one hand, and, on the other, points in the U.S., under continuing contract with Baker Rubber, Inc. Support shipper: Baker Rubber, Inc., 700 West Chippewa Avenue, South Bend, IN 46680.

MC 151879 (Sub-4-2TA), filed February 11, 1981. Applicant: ROSS DEMING, P.O. Box 136, Dell Rapids, SD 57022. Representative: Claude Stewart, P.O. Box 480, Sioux Falls, SD 57101. Contract: Irregular *prefabricated buildings, component parts and supplies, and articles used in the manufacture and distribution of prefabricated buildings.* Between: Points in SD, on the one hand, and on the other, points in the U.S. Supporting shipper: Triple E Building Systems, 616 Sioux Boulevard, P.O. Box 578, Brandon, SD 57005.

MC 150105 (Sub-4-4TA), filed February 12, 1981. Applicant: KING ASSOCIATED ENTERPRISES, LTD., P.O. Box 253, Butler, WI 53007. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract Irregular: Pallets, and materials, equipment and supplies used in the manufacture and distribution of pallets*, between Butler, WI, on the one hand, and on the other, points in IL, IN, IA, MI, MN, MO, OH, PA, NY, and WV; under continuing contract(s) with Reclaimed Pallet Service, Inc., of Butler, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Reclaimed Pallet Service, Inc., P.O. Box 253, Butler, WI 53007.

MC 117165 (Sub-4-5TA), filed February 12, 1981. 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. *Lumber and wood products*, (1) From the international boundary line between the U.S. and Canada at Detroit, MI, and (2) From Latonia, KY to points in IA, IL, IN, KY, MI, MO, NY, OH, PA, WI and WV. An underlying ETA seeks 120 days authority. Supporting shipper: Weyerhaeuser Company, 100 South Wacker Drive, Chicago, IL 60606.

MC 145454 (Sub-4-7TA), filed February 12, 1981. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION COMPANY, INC., 7336 West 15th Avenue, Gary, IN 46406. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Foodstuffs and related products* between the facilities of Specialty Brands, Inc. located at or near Thornton, IL, on the one hand, and on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Specialty Brands, Inc., 201 West Armory, Thornton, IL 60476.

MC 152337 (Sub-4-3TA), filed February 12, 1981. Applicant: CENTRAL STATES TRUCKING CO., 1311 South First Avenue, Maywood, IL 60153. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Glass containers, closures, and sundry items in connection therewith, and materials, equipment and supplies* used in the manufacture and distribution of the aforesaid items, between Lake and Cook Counties, IL, and Delaware County, IN, on the one hand, and on the other, points in IL, IN, WI and MI. Supporting shipper: Ball Corporation, 345 South High Street, Muncie, IN 47302.

MC 145974 (Sub-4-3TA), filed February 12, 1981. Applicant: HIDATCO, INC., P.O. Box 356, New Town, ND 58763. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract:* Irregular: *Lumber and wood products* from WA, OR, ID, MT, and CA, to points in IA and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Gibbs Lumber Co., 3394 Lake Elmo Avenue, P.O. Box 878, Lake Elmo, MN 55042.

MC 147404 (Sub-4-3TA), filed February 12, 1981. Applicant: DONALD J. GETTELFINGER, d.b.a. GETTELFINGER FARMS R.R. 2, Box 241, Palmyra, IN 47164. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. *Contract* Irregular: *Food or kindered products, (except commodities in bulk)*, between points in the U.S., under continuing contract(s) with Armour and Company, of Phoenix, AZ. Supporting shipper: Armour and Company, 111 W. Clarendon, Station No. 1130, Greyhound Tower, Phoenix, AZ 85077.

MC 144115 (Sub-4-3TA), filed February 12, 1981. Applicant: DIVERSIFIED CARRIERS, INC, 903 6th Street NW., Rochester, MN 55901. Representative: Charles E. Dye P.O. Box 971, West Bend, WI 53095. *Non-exempt or Kindred Products* between points in the U.S. Restricted to traffic originating at or destined to the facilities of Banner Beef Company. Supporting shipper: Banner Beef Company, P.O. Box 66, Hospers, IA 51238.

MC 140276 (Sub-4-1), filed February 12, 1981. Applicant: LARRY SCHEFUS TRUCKING, INC., R. R. 1, Box 202, Redwood Falls, MN 56283. Representative: John H. Schnobrich, Estebo, Carey, Schnobrich & Frank, Ltd., 315 South Washington, Redwood Falls, MN 56283. *Contract* Irregular: 1) *GS hides and animal byproducts, meat and bone meal, blood and blood meal, feather meal, cracklings and grease; and* 2) *Chemicals and equipment used in processing of animal byproducts* by Central Bi-Products, between points in U.S. for account of Central Bi-Products. Supporting shipper: Central Bi-Products, a division of Farmers Union, Marketing and Processing Association, 590 West Park Road, Redwood Falls, MN 56283.

MC 154008 (Sub-4-1TA), filed February 11, 1981. Applicant: DAVID E. YOUNG d.b.a. YOUNG TRUCK LINES, Box 8, Lyle, MN 55953. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Contract* Irregular, *Metal products*, between points in the U.S. under a continuing contract or contracts with Quality Metals, Inc., St. Paul, MN. Supporting shipper: Quality Metals, Inc.,

2575 Doswell Avenue, St. Paul, MN 55108.

MC 148308 (Sub-4–2TA), filed February 11, 1981. Applicant: ROTRANSCO, INC., 6135 West 65th St., Chicago, IL 60638. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract; Irregular; Automobile parts and accessories therefor,* between the facilities of Toyota Motor Distributors U.S.A., Inc. located at or near Carol Stream, IL, on the one hand, and, on the other, points in IA, and MI. Supporting shipper: Toyota Motor Distributors U.S.C., Inc., 500 Kehoe Blvd, Carol Stream, IL 60187.

MC 51146 (Sub-4–59TA), filed February 11, 1981. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid (Same address as applicant). *Such commodities* as are manufactured or dealt in by manufacturers and distributors of tires, tubes, and roofing between Carlisle, PA and Greenville, IL on the one hand, and, on the other, points in the U.S. Supporting shipper: Carlisle Tire & Rubber Company, P.O. Box 99, Carlisle, PA 17013.

MC 29886 (Sub-4–8TA), filed February 12, 1981. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314—39th Avenue, Kenosha, WI 53142. Representative: Albert P. Barber (same address as applicant). *Motor Vehicles,* between Winnebago County, IA, on the one hand, and, on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Select Vehicle Distributors, Inc., 20445 W. Capitol Drive, Brookfield, WI 53005.

MC 124078 (Sub-4–58TA), filed February 13, 1981. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Waste sulphur* from Mt. Pleasant, TN to Baytown, TX. An underlying ETA seeks 120 days authority. Supporting shipper: Stauffer Chemical Company, Westport, CT 06880.

MC 124078 (Sub-4–57TA), filed February 12, 1981. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Chemicals in bulk,* between the facilities of Stepan Chemical Company at Fieldsboro, NJ on the one hand, and, on the other, points in AL, FL, GA, NC, SC, VA, and WV. Supporting shipper: Stepan Chemical Company, 22 Frontage Road, Northfield, IL 60093.

MC 139667 (Sub-4–3TA), filed February 12, 1981. Applicant: CHARLES SCHMIDT, JR., 101 West Sanger, Salem, IL 62881. Representative: Brenda Schmidt, 906 Meadow Lane, Salem, IL 62881. *Iron and steel articles,* from points in the Chicago CZ to points in MO, TN, AR, TX, and from points in TX and TN to points in MO, IL and KY. An underlying ETA seeks 120 days. Supporting shippers: There are six supporting shippers.

MC 146837 (Sub-4–2TA), filed February 11, 1981. Applicant: SOUTHERN MINNESOTA GROCERY COMPANY, 202 Southwest Second, P.O. Box 201, Waseca, MN 56093. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. *Flour and bran;* from (1) Winona, MN to Hutchinson, KS and Joplin, MO. (2) Chester, IL to Hutchinson, KS, (3) Hutchinson, KS to Oklahoma City, OK, Little Rock, AR and Dallas, TX. Supporting shipper: Kelly Milling Company, P.O. Box 1037, Hutchinson, KS 67501.

MC 153771 (Sub-4–1TA), filed February 11, 1981. Applicant: GATTI EXCAVATING COMPANY, INC., 3570 N. 25th Street, Terre Haute, IN 47805. Representative: David Konnersman, 5101 Madison Avenue, Indianapolis, IN 46227. *Contract* irregular: Transporting *machinery, electrical machinery, equipment or supplies* between points in the United States under continuing contracts with Amax Coal Company Division, Indianapolis, IN. Supporting shipper: Amax Coal Co., Div., 105 S. Meridian St., Indianapolis, IN 46225.

MC 134551 (Sub-4–5TA), filed February 12, 1981. Applicant: LANTER REFRIGERATED DISTRIBUTING CO., No. 3 Caine Drive, Madison, IL 62060. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Medical supplies,* between St. Louis, MO, on the one hand, and, on the other, points in IL, on and south of Interstate Hwy 80. Supporting shipper: Travenol Laboratories, Inc., 6301 Lincoln Ave., Morton Grove, IL. 60053.

MC 153994 (Sub-4–1TA), filed February 11, 1981. Applicant: NORM SCHILLING TRUCKING, INC., 18042 S. Kedzie Ave., Chicago, IL 60429. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602. *Contract* Irregular: *Precast Concrete* between IL, WI, MO, OH, IN, MI, and IA, MN. Supporting shipper: Permacrete Products, Corp., 220 E. 168th St., South Holland, IL 60473.

MC 136774 (Sub-4–4TA), filed February 11, 1981. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Liquid orange juice concentrate,* (1) from points in FL to Chicago, IL, and points in its Commercial Zone, and (2) from Chicago, IL, and points in its Commercial Zone to Bonner Springs, KS. An underlying ETA seeks 120 days authority. Supporting shipper: Bodine's, Inc., 5757 West 59th St., Chicago, IL 60638.

MC 136774 (Sub-4–3TA), filed February 11, 1981. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Nonexempt food or kindred products,* from the facilities of Heinz U.S.A. located at or near Holland, MI, to the facilities of Heinz U.S.A. at or near Muscatine, IA. An underlying ETA seeks 120 days authority. Supporting shipper: Heinz U.S.A. P.O. 57, Pittsburgh, PA 15230.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 29910 (Sub-5–78TA), filed February 12, 1981. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *Classes A and B explosives,* between Simsbury, CT; Graham, KY and Louviers, CO, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Ensign-Bickford Industries, 660 Hopmeadow Street, Simsbury, CT.

MC 35320 (Sub-5–49TA), filed February 13, 1981. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same as applicant). Common, regular. *General Commodities, except household goods as defined by the Commission, and Classes A and B explosives,* serving Charlotte, NC and its commercial zone as an off-route point in connection with carrier's otherwise authorized regular-route operations. Supporting shipper: Seven.

MC 53965 (Sub-5–8TA), filed February 13, 1981. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, P.O. Drawer 1387, Salina, KS 67401. Representative: John E. Jandera, 641 Harrison Street, P.O. Box 1979, Topekea, KS 66601. Common, regular. *General Commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* Between Lawton, OK and Amarillo, TX.

from Lawton over U.S. Hwy 62 to junction U.S. Hwy 83, then over U.S. Hwy 83 to junction Texas Hwy 256, then over Texas Hwy 256 to junction U.S. Hwy 287, then over U.S. Hwy 287 to Amarillo, TX and return over the same route, serving all intermediate pts and serving all pts in Harmon, Jackson, Tillman, Cotton, Kiowa and Comanche Counties, OK as off-route pts. Thirty-one supporting shippers. Applicant intends to tack and interline

MC 106707 (Sub-5–2TA), filed February 13, 1981. Applicant: ADAMS TRUCKING INC., 1711 W. Second St., Webster City, IA 50595. Representative: Ronald D. Adams (same as above). *Iron and Steel articles* between Clinton County, IA and pts in AZ, AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, WI, and WY. Supporting shipper: Central Steel Tube Co., Central Steel Rd., P.O. Box 551, Clinton, IA. 52732.

MC 107727 (Sub-5–2TA). Applicant: ALAMO EXPRESS, INC., 6013 Rittiman Plaza, San Antonio, 78218. Representative: Robert J. Birnbaum, Suite 151, 3636 Executive Center Drive, Austin, TX 78731. Common; regular; *general commodities, except Classes A and B explosives and household goods, as defined by the Commission,* (1) Between San Antonio, TX and Memphis, TN as follows: From San Antonio over IH 35 and 35 East to its intersection with IH 30, thence over IH 30 to its intersection with IH 40, thence over IH 40 to Memphis, TN and return over the same route, servicing the commercial zones of all intermediate points. (2) Between Victoria, TX and Memphis, TN as follows: From Victoria, over U.S. 77 to its intersection with IH 35, thence over IH 35 and 35 East to its intersection with IH 30, thence over IH 30 to its intersection with IH 40, thence over IH 40 to Memphis, and return over the same route, servicing all the commercial zones of all intermediate points between the intersection of U.S. 77 and IH 35 and Memphis, TN. (3) Between Houston, TX and Memphis, TN as follows: From Houston over U.S. 59 to its intersection with U.S. 259, thence over U.S. 259 to its intersection with IH 20, thence over IH 20 to its intersection with U.S. 59, thence over U.S. 59 to its intersection with IH 30, thence over IH 30 to its intersection with IH 40 to Memphis, and return over the same route, servicing the commercial zones of all intermediate points. (4) As an alternate route, between the intersection of IH 35 and U.S. 79 and Memphis, TN, as follows: From the intersection of IH 35 and U.S. 79, over U.S. 79 to its intersection with IH 40, thence over IH 40 to Memphis, and return over the same route. Supporting shippers: There are 30 supporting shippers.

Note.—Applicant intends to tack and interline.

MC 109397 (Sub-5–30TA), filed February 12, 1981. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *Hazardous waste,* from points in MD, NY, OH, NJ, PA, WV, VA, DE, and DC to Emelle and Theodore, AL and Deer Park, TX. Supporting shipper: MET Electrical Testing Co., Inc., 916 W. Patapsco Avenue, Baltimore, MD 21230.

MC 111231 (Sub-5–21TA), filed February 12, 1981. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: James H. Berry (same address as applicant). (1) *Engines and accessories* and (2) *Materials, equipment and supplies used in the manufacture, sales and distribution of commodities named in (1) above* between Pope County, AR on the one hand, and, on the other, points in CA, MT, WY, CO, UT, NM, TX, OK, KS, NE, SD, ND, LA, MS, AL, FL, IA, IL, OH, IN, WI and MO. Supporting shipper: Minneapolis-Moline Engine Company, P.O. Box 788, Russellville, AR 72801.

MC 114965 (Sub-5–3TA), filed February 13, 1981. Applicant: CYRUS TRUCK LINE, INC., P.O. Box 327, Iola, KS 66749. Representative: Charles H. Apt, Attorney, P.O. Box 328, Iola, KS 66749. *Emulsified asphalts, in bulk, in tank vehicles,* from Pittsburg, KS, to pts. and places in OK. Supporting shipper: Road Emulsions Pittsburg, Inc., 305 South Joplin, Pittsburg, KS 66762.

MC 116004 (Sub-5–2TA), filed February 12, 1981. Applicant: TEXAS OLKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, TX 75147. Representative: Doris Hughes (same as applicant). Common; regular; *General Commodities (except household goods as defined by the Commission and A & B explosives) as described in STTC No. 51,* serving the facilities of Holly Sugar Corporation, Hereford, TX as off route point in connection with carrier's regular route authority. Supporting shipper: Holly Sugar Corporation, P.O. Box 1052, Colorado Springs, CO 80901. Applicant intends to tack and interline.

MC 117119 (Sub-5–52TA), filed February 12, 1981. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Such commodities as are used by restaurants (except commodities in bulk and foodstuffs other than condiments)* from Topeka, KS to Guilderland Park, NY. Supporting shipper(s): Franchise Services, Inc., P.O. Box 484, Wichita, KS 67201.

MC 117119 (Sub-5–53TA), filed February 13, 1981. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Doors and door hardware* between points in OR, TX, FL, MI and SC, restricted to traffic originating at or destined to the facilities of or used by Jim Walter Doors, Inc. Supporting shipper(s): Jim Walter Doors, Inc., 7200 Southeast 92nd, Portland, OR 97266.

MC 117119 (Sub-5–54TA), filed February 13, 1981. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Wood products and materials, equipment and supplies used in the manufacture and distribution thereof* between Multnomah County, OR and points in NY & TN. Supporting shipper(s): D & D Bennett Inc., 702 Northeast 2nd, Troutdale, OR 97060.

MC 119789 (Sub-5–42TA), filed February 13, 1981. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Insulators and parts* from LeRoy, NY to points in AL, FL, GA, NC, SC, and TN. Supporting shipper: Lapp Insulator Division, Interpace Corporation, P.O. Box 776, Sanderville, GA 31802.

MC 124673 (Sub-5–9TA), filed February 13, 1981. Applicant: FEED TRANSPORT, INC., P.O. Box 2167, Amarillo, TX 79105. Representative: Gail P. Johnson (same as applicant). *Feed ingredients,* between points in the U.S. (except AK and HI) restricted to shipments originating at or destined to facilities used by the Ralston Purina Company. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 126822 (Sub-5–47TA), filed February 13, 1981. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *(1) Building materials, and (2) equipment and supplies used in connection with (1) above,* between pts in the U.S. restricted to shipments for Marley Cooling Tower Co. Supporting shipper: Marley Cooling Tower Co., 5800 Foxridge Drive, Mission, KS 66202.

MC 126822 (Sub-5–48TA), filed February 13, 1981. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *General commodities (except Classes A and B explosives),* between pts. in the U.S. restricted to shipments from, to, or between the facilities of Acli International Coffee Co. Supporting shipper: Acli International Coffee Co., 717 Westchester Avenue, White Plains, NY 10604.

MC 134328 (Sub-5–1TA), filed February 13, 1981. Applicant: D & G TRUCKING CO., INC., P.O. Box 1004, Wynne, AR 72396. Representative: James N. Clay III, 222 E. Mallory Ave., Memphis, TN 38109. Contract, irregular; *Swimming pools, decks for swimming pools, parts and accessories and items used in their manufacture and distribution,* between Helena, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Doughboy Recreational, Inc., 10959 Jersey Boulevard, Cucamonga, CA 91730.

MC 135797 (Sub-5–98TA), filed February 12, 1981. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esquire (same as above). *Such commodities as are dealt in or used by craft and nursery stores and equipment, materials and supplies used in the conduct of such business.* Between points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities of Frank's Nursery & Crafts, Inc., Supporting shipper: Frank's Nursery & Crafts, Inc. 6399 E. Nevada, Detroit, MI 48123.

MC 136786 (Sub-5–49TA), filed February 13, 1981. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. Third St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Olsen, Snelling & Christensen, P.A., Suite 307, 5200 Willson Road, Edina, MN 55424. *Such commodities as are dealt in or used by manufacturers and distributors of pillows;* 1) between Los Angeles and Berkley, CA, Denver, CO, Bensonville, IL, Newark, NJ, Dallas, TX, and Seattle, WA; and 2) between Los Angeles and Berkley, CA, Denver, CO, Bensonville, IL, Newark, NJ, Dallas, TX and Seattle, WA, on the one hand, and on the other, pts. in the U.S. Supporting shipper: Northern Feather, Inc., Somerville, NJ.

MC 136786 (Sub-5–50TA), filed February 13, 1981. Applicant: ROBCO TRANSPORTATION, INC., 4475 NE. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Olsen, Snelling, & Christensen, P.A., 5200 Willson Road, Ste. 307, Minneapolis, MN 55424. (1) *Malt beverages and related advertising materials; (2) empty used beverage containers and materials and supplies used in and dealt with by breweries.* (1) From Jefferson County, CO to TN, LA, MS, IA, AZ, and CA; (2) from TN, LA, MS, IA, AZ and CA to Jefferson County, CO. Supporting shipper: Adolph Coors Co., Golden, CO 80401.

MC 138328 (Sub-5–18TA), filed February 13, 1981. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 and Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). *Such commodities as are dealt in or used by wholesale and retail department stores,* between Omaha, NE, and pts in the U.S., restricted to traffic originating at or destined to the facilities of Pamida, Inc. Supporting shipper: Pamida, Inc., 8800 F St., Omaha, NE 68127.

MC 139973 (Sub-5–6TA), filed February 13, 1981. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *General commodities (except Classes A and B explosives, household goods as defined by the Commission and those Commodities injurious or contaminating to other lading),* Between pts in NY, OH, PA, and WV on the one hand, and, on the other, pts in the U.S. (except AK and HI). Supporting shipper: Busy Beaver Building Center, Inc., 641 Alpha Drive, Pittsburgh, PA 15238.

MC 144844 (Sub-5–3TA), filed February 13, 1981. Applicant: OZARK TRANSPORTATION, INC., P.O. Box 203, Greenville, MO 63944. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Metal articles,* from Chicago and Granite City, IL and their commercial zones, to pts AL, AR, CO, IL, IN, IA, LA, KS, KY, MO, MS, NE, OK, TN, TX and WI. Supporting shipper(s): There are five supporting shippers.

MC 145997 (Sub-5–8TA), filed February 12, 1981. Applicant: J.E.M. EQUIPMENT, INC., Post Office Box 396, Alma, AR 72921. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Meat, Meat Products and Meat By-Products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk)- Between points in the U.S. (except AK and HI)-Restricted to the transportation of traffic originating at or destined to the facilities of Swift Independent Packing Company. Supporting shipper: Swift Independent Packing Company, 115 West Jackson Boulevard, Chicago, IL 60604.

MC 148107 (Sub-5–4TA), filed February 12, 1981. Applicant: J. J. MESA, d.b.a. J. J. MESA TRUCKING CO., 1500 South Zarzamora Street, San Antonio, TX 78207. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *Drysalted and greensalted hides* between points in TX, CA and CO. Supporting shipper: Grossman Company, P.O. Box 58132, Los Angeles, CA 90058.

MC 148284 (Sub-5–3TA), filed February 13, 1981. Applicant: DON YOUNGBLOOD TRUCKING COMPANY, INC., Post Office Box 309, Mulberry, AR 72947. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Petroleum Products (except in bulk) and Empty Drums*—Between Orange and Jefferson Counties, TX, on the one hand, and, on the other, points in AR. Supporting shipper: Henson Oil Company, Post Office Box 98, Mansfield, AR 72944.

MC 149462 (Sub-5–1TA), filed February 13, 1981. Applicant: BERNARD PAVELKA TRUCKING, INC., 1215 East J Street, Hastings, NE 68901. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Contract, Irregular. *Meat, meat products and meat by-products, and articles distributed by meat packinghouses, as described in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk),* from the facilities of Dugdale of Nebraska, Inc., at or near Darr, NE to the Fort Worth, TX commercial zone, under continuing contract(s) with Dugdale of Nebraska, Inc. Supporting shipper: Dugdale of Nebraska, Inc., P.O. Box 166, Cozard, NE 69130.

MC 150626 (Sub-5–3TA), filed February 13, 1981. Applicant: HAROLD IVES TRUCKING CO., P.O. Box 885, Highway 79 East, Stuttgart, AR 72160. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72210. *Fruit and vegetable shipping baskets and wire-bound crates;* between Little Rock and Nashville, AR on the one hand, and on the other, points and places in AZ (restricted to the movements of the above commodities originating at and destined to the facilities of Little Rock Crate and Basket Co.). Supporting shipper: Little Rock Crate and Basket Co., 1623 East 14th Street, Little Rock, AR 72202.

MC 151637 (Sub-5–6TA), filed February 12, 1981. Applicant: LARRY

BREEDEN TRUCKING, INC., 1301 Fayetteville Road, Van Buren, AR 72956. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Malt Beverages and Empty Used Beverage Containers and Materials and Supplies used in and dealt with by breweries*—From Jefferson County, CO—Between Jefferson County, CO, on the one hand, and, on the other, points in AR, LA, MS AND TN. Supporting shipper: Adolph Coors Company, Golden, CO 80401.

MC 152292 (Sub-5–4TA), filed February 13, 1981. Applicant: SUNBELT EXPRESS, INC., 3129 Robin Hill Lane, Garland, TX 75042. Representative: William Sheridan, 1025 Metker, P.O. Drawer 5049, Irving, TX 75062. *Talc Ground, Bagged* from CA to Dallas and Houston, TX. Restricted to shipments originating at or destined to the facilities of Family Affair. Supporting shipper: Family Affair, 3232 Royalty Row, Irving, TX 75062.

MC 153285 (Sub-5–TA), filed February 13, 1981. Applicant: JACK L. JORDAN; d.b.a. CITY OF SHREVEPORT SWIM TEAM, 2815 Mackey Lane, Shreveport, LA 71118. Representative: Curtis B. Williams, 2621 Randolph, Shreveport, LA 71108. *Passengers and baggage* between Shreveport, LA and points in TX, LA, and AR within 150 mile radius of Shreveport, LA on the one hand, and on the other, points in LA, TX, MS, IL, AL, GA, FL, NC, AR, TN, WY, DC, NY, PA, CO, OK, NM, AZ, NV and CA. Supporting shippers: 6.

MC 153323 (Sub-5–2TA), filed February 13, 1981. Applicant: IOWA-TEXAS EXPRESS, LTD., P.O. Box 283, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Meat, meat products, and meat by-products articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Hygrade Food Products Corporation at Storm Lake, Cherokee, and Sioux city, IA to pts in AZ, CA, LA, NM, and TX. Supporting shipper(s): Hygrade Food Products Corporation, P.O. Box 4771, Detroit, MI 48219.

MC 153456 (Sub-5–2TA), filed February 13, 1981. Applicant: FRANK A. KOSAR, d.b.a. RITE WAY TRUCK RENTAL, 2606 Cartwright, Dallas, TX 75212. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Paper and Paper Articles and Materials, Equipment and Supplies used in the manufacture of paper and paper articles* between Dallas, TX on the one hand, and, on the other, points in CA, GA, IL, MN, OH, PA and TN. Supporting shipper: Metroplex Paper and Supply, 11038 Grisom Lane, Dallas, TX 75229.

MC 153650 (Sub-5–1TA), filed February 12, 1981. Applicant: MIKE MEADORS TRUCKING, Post Office Box 496, Alma, AR 72921. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Packaged Petroleum Products*—From New Orleans, LA and Woodriver, MO—To points in AR. Supporting shipper: Two States Petroleum Company, Inc., Post Office Box 627, Ft. Smith, AR 72901.

MC 153760 (Sub-5–1TA), filed February 13, 1981. Applicant: NELSON ENERGY, INC., P.O. Box 879, Plainview, TX 79072. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Liquefied Petroleum Gas, In Bulk, In Tank Vehicles* from Alma and Albany, GA to points in FL. Restricted to shipments originating at the terminals of Dixie Pipeline. Supporting shipper: Warren Petroleum Co., P.O. Box 1589, Tulsa, OK 74102.

MC 153776 (Sub-5–1TA), filed February 12, 1981. Applicant: SOUTHLAND HOT SHOT SERVICE, INC., Post Office Box 2618, Houma, LA 70361. Representative: Janet Boles Chambers, 8211 Goodwood Boulevard, Suite C–2, Baton Rouge, LA 70806. *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 machinery, equipment, materials and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof,* between points in TX, OK, AR, MS, AL, FL, MN, CO, WY, and LA. Supporting shippers: There are 15 supporting shippers.

MC 153876 (Sub-5–1TA), filed February 13, 1981. Applicant: COYOTE EXPRESS, INC., 2724 West Eleventh Street, Irving, TX 75060. Representative: Jack L. Coke, Jr., 4555 First National Bank Bldg., Dallas, TX 75202. Contract; irregular; *General Commodities (except classes A and B explosives, toxic waste, or commodities in bulk),* between points in the U.S., under continuing contracts with Christopher Air Freight, a/k/a Stagecoach Air Freight, Grapevine, TX. Supporting shipper: Christopher Air Freight a/k/a Stagecoach Air Freight, 3221 W. T. Parr Rd., Grapevine, TX 76051.

The following protests were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board (RMBC), P.O. Box 7413, San Francisco, CA 94120.

MC 149072 (Sub-G–1TA), filed February 9, 1981. Applicant: ROBERT L. BELL, Skaar Route, Box 264, Sidney, MT 59270. Representative: David L. Jackson, 203 N. Ewing St., Helena, MT 59601. *Common carrier,* Regular routes: *General Commodities* (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Glendive, NT to Sidney, NT via MT Hwy 16 and return over the same route, serving all intermediate points; and from Fairview, MT to Circle, MT via MT Hwy 200 and return over the same route, serving all intermediate points, for 270 days. Interline requested. Supporting shipper(s): Garrett Freightlines, Inc., 2055 Garrett Way, Pocatello, ID 83201.

MC 134387 (Sub-6–8TA), filed February 9, 1981. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schnegg, 1800 United California Bank Bldg., Los Angeles, Ca 90017. *Waste products for recycling,* between OR, CA, CO, ID, WA, NV and MT, for 270 days. Supporting shipper: Northwest Paper Fibers, 2625 Northwest Industrial St., Portland, OR 97210; Publishers Forest Products, 6637 Southeast 100th Ave., Portland, OR 97266; Western Kraft Paper Group, Albany Paper Mill Division, Willamette Industries Inc., P.O. Box 339, Albany, OR 97231; Independent Paper Stock Co., 10175 Southwest Barbur Blvd., No. 300B, Portland, OR 97219.

MC 149474 (Sub-6–2TA), filed February 9, 1981. Applicant: CONTRACTORS CARGO CO., 11100 S. Garfield Ave., South Gate, CA 90280. Representative: John H. Briggs (same as applicant). Contract carrier, Irregular Routes: *Steel Pipe* between: Kaiser, CA and Lake Havasu Jobsite approx. 20-miles East of Parker, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Kaiser Steel Corp., Box 58, 300 Lakeside Dr., Oakland, CA 94604.

MC 133478 (Sub-6–3TA), filed February 9, 1981. Applicant: DG TRANSPORT, INC., P.O. Box 23727, Portland, OR 97223. Representative: Peter M. Glade, One SW Columbia, Suite 555, Portland, OR 97258. *Contract Carrier,* Irregular routes: *Forest products* between points in the U.S. for the account of Chapman Lumber Co. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Chapman Lumber Co., 813 SW Alder, Portland, OR 97205.

MC 144606 (Sub-6–4TA), filed February 10, 1981. Applicant: DUNCAN & SON LINES, INC., 714 E. Baseline Rd., Buckeye, AZ 85326. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012. *Contract Carrier: Irregular routes: Cardboard Cartons* "KD", in bundles, bales, or palletized, from Commerce City, CO (near Denver) to Albuquerque, NM, and from Albuquerque, NM to Phoenix, AZ, for the account of Dura-Box Corporation, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Dura-Box Corporation, 425 Los Angeles St., N.E., Albuquerque, NM. 87184.

MC 145102 (Sub-6–13TA), filed February 9, 1981. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are dealt in or used by manufacturers, printers, converters, and processors of paper and paper products (except in bulk)* between the facilities of Fort Howard Paper Co. at or near Green Bay, WI and Muskogee, OK, on the one hand, and, on the other, points in AZ, CA, CO, ID, LA, NM, OK, OR, TX, WA, and WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Fort Howard Paper Co., 1919 S. Broadway, Green Bay, WI 54305.

MC 116457 (Sub-6–5TA), filed February 10, 1981. Applicant: GENERAL TRANSPORTATION INCORPORATED, 1804 S. 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. Representative: D. Parker Crosby, 1710 S. 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. *Portable storage sheds and portable mud tanks and supplies, materials and equipment used in the handling and manufacture thereof* (except commodities in tank vehicles), between points in Maricopa County, AZ and points in and west of LA, AR, MO, IA and MN, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Petroleum Supply International, 6033 West Sherman, Phoenix, AZ 85043.

MC 1515 (Sub-6–11TA), filed February 10, 1981. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant). *Common carrier*, regular routes, transporting: *passengers and their baggage and express and newspapers, in the same vehicle with passengers*, (1) from Phoenix, AZ to Holbrook, AZ over city streets and unnumbered highways to AZ SR 87, thence AZ SR 87 to its junction AZ SR 260 near Payson, AZ, thence AZ SR 260 to its junction with AZ SR 377 near Heber, AZ, thence AZ SR 377 to its junction with AZ SR 77, thence AZ SR 77 to Holbrook, AZ and return over the same route, serving no intermediate points; (2) from Mesa, AZ to Holbrook, AZ over city streets and unnumbered highways to AZ SR 87, thence AZ SR 87 to its junction with AZ SR 260 near Payson, AZ, thence AZ SR 260 to its junction with AZ SR 377 near Heber, AZ, thence AZ SR 377 to its junction with AZ SR 77, thence AZ SR 77 to Holbrook, AZ and return over the same route, serving no intermediate points, for 180 days. Applicant intends to tack this authority it presently holds in MC 1515. Supporting shipper: There are 16 shippers. Their statements may be examined at the Regional Office listed.

MC 118318 (Sub-6–3TA), filed February 9, 1981. Applicant: IDA–CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, ID 83651 Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, from the facilities of Southwest Beef, Inc. located at or near Tolleson, AZ, to points in CA, ID, NV, OR, UT, and WA, for 270 days. Supporting shipper: Southwest Beef, Inc., P.O.B. 647, Tolleson, AZ 85353.

MC 33641 (Sub-6–6TA), filed February 9, 1981. Applicant: IML FREIGHT, INC., P.O.B. 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same as applicant). *Low-level radioactive waste*, from Concord, MA to Hanford Reservation near Richland, WA, for 270 days. Supporting shipper: Nuclear Metals, Inc., 2229 Main St., Concord MA 01742.

MC 139906 (Sub-6–54TA), filed February 19, 1981. 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. *Such commodities as are dealt in or used by manufacturers and distributors of lawn, garden and snow removal equipment* (except in bulk) between the facilities of AMF, Inc., Lawn and Garden Division, at or near Des Moines, IA and points in the U.S. for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: AMF Inc. Lawn and Garden Division, 3811 McDonald, Des Moines. IA 51303.

MC (Sub-6–55TA), filed February 10, 1981. 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. *Canned goods* from the facilities of Agripac, Inc. at or near Salem, OR and Eugene, OR; the facilities of Castle and Cooke Foods, at or near Salem, OR; and the facilities of Diamond Fruit Growers, Inc., at or near Hood River, OR to points in the U.S. for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Agripac, Inc., P.O.B. 5346, Salem, OR 97304.

MC 139906 (Sub-6–56TA), filed February 10, 1981. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O.B. 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O.B. 81849, Lincoln, NE 68501. *Institutional furniture, and parts, materials and supplies used in the manufacture, sale and distribution of institutional furniture* (except in bulk) between the facilities of Florida Furniture Industries, Inc., at or near Palatka, FL on the one hand, and, on the other, points in the U.S. For 270 days. Supporting shipper: Florida Furniture Industries, Inc., P.O. Box 610, Palatka, FL 32077.

MC 154000 (Sub-6–1TA), filed February 10, 1981. Applicant: JOHAL ENTERPRISES LTD., 8190 Chester Street, Vancouver, B.C., Canada. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102. *Lumber and lumber products*, between points on the U.S.-Canadian International Boundary at or near Blaine, Lynden and Sumas, WA and points in the states of WA, OR and CA for 270 days. Supporting shippers: Sengara Lumber Sales Ltd., 12071 Mitchell Rd., Richmond, B.C., Canada; Sen Western Wholesale Lumber Ltd., 8188 Manitoba Street, Vancouver, B.C., Canada V5X 1X4; Can-Am Builders Supply Ltd., 11016 Bridges St., Surrey, B.C., Canada and Sawarne Lbr. Co. Ltd., 12640 Nitchell Rd., Richmond, B.C., Canada.

MC 147553 (Sub-6–2TA), filed February 9, 1981. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a., MOTOR WEST; P.O.B. 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Petroleum and petroleum products (other than liquid commodities in bulk)*, from Kansas City, KS and points in its commercial zone to points in ID, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Bob Nicholes Oil Co., Inc., 2309 Franklin Rd., Caldwell, ID 83605; Kendrick Oil Company, Inc., 735 Minidoka Ave., Twin Falls, ID 83301.

MC 153998 (Sub-6–1TA), filed February 10, 1981. Applicant: OLIVE EXPRESS, INC., P.O. Bx 3865, Visalia, CA 93278. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306.. *Foodstuffs (except commodities in bulk)* from Los Angeles, CA and Visalia, CA to Albuquerque, NM; Dallas,

TX; Phoenix, AZ; Portland, OR and Seattle, WA, for 270 days. Supporting shipper: Early California Foods, Inc., P.O. Bx 71, Visalia, CA 93277.

MC 126514 (Sub-6–15TA), filed February 9, 1981. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home RD., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL. 60603. *Paper and paper products, stationery supplies such as staplers and fastners, binders and folders, and other commodities used by manufacturers and distributors of stationery supplies* between the facilities of Acco International, Inc. located at Ogdensburg, NY; Jackson, MS; Chicago, IL and Los Angeles, CA for 270 days. Supporting shipper: Acco International, Inc., Riverside Dr., Ogdensburg, NY, 13669.

MC 126514 (Sub-6–16TA), filed February 9, 1981. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. *Business forms, printed matter, office supplies, paper and paper products, and materials, equipment and supplies used in the manufacture, production, and distribution of the above-named commodities (except commodities in bulk)* between Carson, Fullerton, San Diego, Santa Ana, San Jose, Santee and Los Angeles, CA; Benton, LA; Brookfield, WI; Chicago, IL; Dallas, Houston and San Antonio, TX; Eden, NC; Randolph Township, NJ; Salt Lake City, UT; Tulsa, OK; Suwanee, GA and Phoenix, AZ for 270 days. Restriction: Restricted to traffic originating at or destined to the facilities of Vanier Graphics Corporation and its vendors and suppliers. Supporting shipper: Vanier Graphics Corp., 1851 Deere Ave., Santa Ana, CA 92705.

MC 126514 (Sub-6–17TA), filed February 9, 1981. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. *General commodities (Except commodities in bulk)* from the facilities and warehouses of Pacific Coast Warehouse Corp. in Los Angeles, CA and its commercial zone to points East of U.S. Hwy 85 for 270 days. Supporting shipper: Pacific Coast Warehouse Corp., 4814 Loma Vista Ave., Los Angeles, CA 90058.

MC 126514 (Sub-6–19TA), filed February 9, 1981. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. *General commodities (except commodities in bulk)* from the facilities of Bostrum Warren, Inc. in Los Angeles Co. and Orange Co., CA to points East of U.S. Hwy 85 for 270 days. Supporting shipper: Bostrum Warren, Inc., 110 W. Ocean Blvd., Suite 512, Long Beach, CA 90802.

MC 153987 (Sub-6–1TA), filed February 9, 1981. Applicant: MARION SELMAN, d.b.a. SELMAN TRUCKING, P.O.B. 42, Lafayette, CO 80026. Representative: Marion Selman (same address as applicant). *Contract Carrier*, irregular routes: *Travel, recreational or office trailers*, in haulaway or towaway service, between points in the states of AR, CO, IA, KS, LA, MN, MO, MT, NE, NM, ND, OK, SD, TX, UT, and WY, under continuing contract with Elder/Quinn & McGill, Kit Manufacturing Company, and Fleetwood Travel Trailers of Nebraska, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Elder/Quinn & McGill, Inc., 4800 Race, Denver, CO. 80216; Kit Manufacturing Company, P.O.B. 586, McPherson, KS; and Fleetwood Travel Trailers of Nebraska, Inc., 13737 Industrial Rd., Omaha, NE.

MC 138215 (Sub-6–1TA), filed February 9, 1981. Applicant: SERVICE AIR CARGO, 6003 Telegraph Rd., Commerce, CA 90040. Representative: Mark A. Berman (same address as applicant). *Contract Carrier*, Irregular routes, *General Commodities* except classes A & B explosives, between Los Angeles, CA commercial zone, on the one hand, and, on the other, Chicago, IL commercial zone; Cleveland, OH; Clinton, MA; Columbia, PA; Denver, CO; Elmira and No. Tonawanda, NY; Oakland, San Diego, San Francisco, and San Jose, CA; Phoenix, AZ; Portland, OR; Reno, NV; Rumford, RI (part of E. Providence, RI); and Seattle, WA, for the account of International Telephone and Telegraph Corporation, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: International Telephone and Telegraph Co., 320 Park Ave., New York, NY 10022.

MC 148737 (Sub-6–12TA), filed February 9, 1981. Applicant: SUNSET EXPRESS CORP., P.O. Box 27043, Salt Lake City, UT 84125. Representative: Carl I. Sundeaus (same as applicant). *Foodstuffs* (except in bulk) from CA and OR to CT, NJ, NY and PA, for 270 days. Supporting shipper: Nugget Distributors, Inc., P.O. Box 8309, Stockton, CA 95208.

MC 151225 (Sub-6–18TA), filed February 9, 1981. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Representative: Steven E. Napper, 718 17th St., Suite 1700, Denver, CO 80202. (1) *Bentonite*, from Belle Fourche, SD. and Colony and Upton, WY, to all points in the U.S. (except AK and HI); (2) *Cement*, (A) from Trident and Three Forks, MT, to points in WY , and (B) from Rapid City, SD, to all points in ND; (3) *Fly Ash*, from points in WY to points in UT; and (4) *Limestone* and *Limestone Products*, from Rapid City, SD to points in WY for 270 days. Supporting shippers: There are five supporting shippers. Their statements may be examined at the Regional Office listed.

MC 297 (Sub-6–2TA), filed February 9, 1981. Applicant: WOODLAND TRUCK LINE, INC., P.O.B. 70, Woodland, WA 98674. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210. (1) *Building materials* and (2) *lumber and wood products*, between Vancouver, McCleary and Kirkland, WA, on the one hand, and CO, MT, SD, ND and CA, on the other hand. Supporting shipper: Simpson Timber Company, 900 4th Ave., Seattle, WA 98164.

MC 153968 (Sub-6–1TA), filed February 9, 1981. Applicant: ZENO TABLE CO., INC., 2001 E. Dyer Rd., Santa Ana, CA 92705. Representative: Dominick F. Pellegrino, (same as applicant). *Contract Carrier:* Irregular routes: *Canvas and Wooden Folding Furniture, Cartoned, furniture and fixtures* from Fort Smith, AR to Los Angeles, CA for the account of Tucker Duck and Rubber Co, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Tucker Duck and Rubber Company, 2701 Kelley Hwy, Fort Smith, AR 72914.

MC 153968 (Sub-6–2TA), filed February 9, 1981. Applicant: ZENO TABLE CO., INC., 2001 E. Dyer Rd., Santa Ana, CA 92705. Representative: Dominick F. Pellegrino, (same as applicant). *Contract Carrier:* Irregular routes: *Upholstered Furniture*, from Waxahachie, TX to Riverside, CA for the account of Flexsteel Industries, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Flexsteel Industries, Inc., 1401 W. Marvin, Waxahachie, TX 75165.

MC 153968 (Sub-6–3TA), filed February 9, 1981. Applicant: ZENO TABLE CO., INC., 2001 E. Dyer Rd., Santa Ana, CA 92705. Representative: Dominick F. Pellegrino (same address as applicant). *Contract carrier:* Irregular routes: *Wooden Frame Parts*, from Harrison, AR to Riverside, CA for the account Flexsteel Industries, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Flexsteel Industries, Inc., 1401 W. Marvin Waxahachie, TX 75165.

MC 153968 (Sub-6–4TA), filed Febraury 9, 1981. Applicant: ZENO TABLE CO., INC. 2001 E. Dyer Rd., Santa Ana, CA 92705. Representative: Dominick F. Pellegrino. *Contract carrier:* Irregular routes: *Metal Chairs, Folding, Cartoned,* from Fort Smith, AR to Los Angeles, CA for the account of Flanders Industries Incorporated for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Flanders Industries, Inc., 1901 Wheeler Ave. Fort Smith, AR 72902.

MC 153968 (Sub-6–5TA), filed February 10, 1981. Applicant: ZENO TABLE CO., INC., 2001 E. Dyer Road, Santa Ana, CA 92705. Representative: Dominick F. Pellegrino (same as applicant). *Contract Carrier:* Irregular routes: *Upholstery Fabric, Steel Frame Parts, Upholstered Furniture,* from Dubuque, IA to Riverside, CA for the account of Flexsteel Industries, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Flexsteel Industries, Inc., 1401 W. Marvin, Waxahachie, TX 75165.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6344 Filed 2-24-81; 8:45 am]

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[Permanent Authority Decisions Volume No. 25]

Restriction Removals; Decision-Notice

Decided: February 19, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 1585 (Sub-12)X, filed February 12, 1981. Applicant: BARNES TRUCK LINE, 1320 Highway 13 North, Columbia, MS 39429. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. Applicant seeks to remove restrictions in its lead and Sub-5, 6, 8, 9, 11F, certificates to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A & B explosives)" in lead and Sub-5, 6, 9, 11F, (2) authorize service to all intermediate points along a described regular route between Jackson, MS and Tylertown, MS, Columbia, MS and New Orleans, LA, and Tylertown, MS and Columbia, MS in lead and between McComb and Tylertown, MS, Brookhaven and Prentiss, MS and Jackson, MS and New Orleans, LA in Sub-11F, (3) remove a restriction against the transportation of traffic moving to or from New Orleans in lead, (4) eliminate a restriction limiting service to intermediate points in MS to traffic moving to, from, or through New Orleans or its commercial zone in Sub-11F, (5) authorize radial in lieu of existing one-way service between 2 named points in MS, in Sub-8, (6) remove a restriction limiting service to traffic having an immediately subsequent movement by water in Sub-8.

MC 1846 (Sub-14)X, filed February 12, 1981. Applicant: W. D. KIBLER TRUCKING COMPANY, INC., 630 South State Street, Indianapolis, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions from its Sub-11 permit which authorizes the transportation of specified commodities and equipment, materials and supplies (except in bulk) between specified points under a continuing contract(s) with a named shipper to (1) eliminate the "except in bulk" restriction, and (2) broaden the territorial description to "between points in the U.S.", under a continuing contract(s) with a named shipper.

MC 22254 (Sub-84)X, filed February 9, 1981. Applicant: TRANS-AMERICAN VAN SERVICE, INC., P.O. Box 12608, Fort Worth, Texas 76116. Representative: Marshall Kragen, 1919 Pennsylvania Avenue N.W., Suite 300, Washington, DC 20006. Applicant seeks to remove restrictions in its Sub-12 Certificate by (1) broadening the commodity descriptions from uncrated pianos and uncrated musical instruments to "miscellaneous products of manufacture, uncrated antiques to "antigues", damaged or wrecked airplanes and parts thereof, uncrated to "transportation equipment and from uncrated assembled and unassembled prefabricated building and parts thereof to "building materials", and (2) broaden the territorial description from one-way authority to radial authority between 38 named states and DC, and, Chicago and points in that part of 6 named States, within 200 miles of Chicago, IL.

MC 65525 (Sub-26)X, filed February 9, 1981. Applicant: WHITE BROTHERS TRUCKING CO., P.O. Box 96, Wasco, IL 60183. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-25F certificate, which authorizes the transportation of "size and weight" commodities (with certain exceptions such as paper, tractor cabs, snowmobiles, and aerospace craft) radially between points in IL and WI, and, points in CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, PA, RI, SD, TN, (except Portland), VT, VA, WV, WI, and DC, by (1) removing all exceptions on its commodity description, and (2) removing the restriction limiting service to the transportation of traffic originating at and destined to points in the above named states.

MC 75302 (Sub-19)X, filed February 9, 1981. Applicant: DOUDELL TRUCKING COMPANY, P.O. Box 842, San Jose, CA 95106. Representative: Marvin Handler, 100 Pine St., Suite 2550, San Francisco, CA 94111. Applicant seeks to remove restrictions in its Sub-8 and 13F certificate to broaden the commodity description to general commodities (except class A and B explosives) from general commodities (with exceptions).

MC 99161 (Sub-8)X, filed February 9, 1981. Applicant: ALABAMA FREIGHT, INC., P.O. Box 10032, Birmingham, AL 35207. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209. Applicant seeks to remove restrictions in its Sub-5F and 6F certificates (1) by deleting "except in bulk, in tank vehicles" from its commodity authorization to transport plastic pipe and article made of 6 metals, (2) by eliminating facilities designations in both Sub-Nos. at Birmingham and Mobile, AL, Little Rock, AR, Jackson, MS, Chattanooga, TN,

Jacksonville and Tampa, FL, Atlanta, GA, and Shreveport and Lafayette, LA, (3) by changing one-way to radial authority in Sub-5F between Mobile, AL and GA, TN, FL, MS, and in Sub-6F between the points named in (2) above and LA and AR, and (4) by deleting originating at or destined to restrictions.

MC 103552 (Sub-12)X, filed February 12, 1981. Applicant: THE FARER TRANSPORTATION CO., P.O. Box 2000, Waterbury, CT 06722. Representative: Edward M. Taber, (same as applicant). Applicant seeks removal of restrictions in its Sub-1, 6, 7, 8, and 9 certificates to broaden the commodity description in each to read "printed matter, and materials, equipment and supplies used in their manufacturing and distribution" from newspapers, newspaper supplements, advertising matter, paperback books, magazines, periodicals, song sheets, sheet music, comics, comic sheets and shopping news.

MC 106400 (Sub-128)X, filed February 5, 1981. Applicant: KAW TRANSPORT COMPANY, P.O. Box 8525, Sugar Creek, MO 64054. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Applicant seeks to remove restrictions to (a) broaden the commodity descriptions (1) to "petroleum, natural gas and their products," from liquified petroleum gas in Sub-16 and 27, coal tar pitch and creosote oil in Sub 23, crude oil in Sub-123F, petroleum lube oil, in Sub-124; (2) to "chemicals and related products" from; anhydrous ammonia, nitrogen fertilizer solution, aqua ammonia, methanol and anti-freeze preparation in Sub-12, printing ink in Sub-91, acids and chemicals in Sub-17, dry phosphate and phosphoric acid in sub-40, nitrogen fertilizer solutions in Sub-47, anhydrous ammonia, ammonium nitrate, urea, nitric acid, sulphuric acid and fertilizer solutions in Sub-54, chemicals in Sub-59, 78, 92, 102, 114F, 115, 118F, and 119F, anhydrous ammonia in Sub-61 and 69, liquid chemicals in Sub-71, dry plastic materials in Sub-76, dry fertilizer and dry fertilizer materials in Sub-86, liquid feed in Sub-109, alcohol in Sub-127F; (3) to "chemicals and related products and petroleum, natual gas, and their products" from asphalt, asphalt cement, asphalt cutback and emulsified asphalt in Sub-121F; (4) to "pulp, paper and related products" from lignin liquor in Sub-82 and (5) to "food and related products" from dry corn and soybean products in Sub-111 and (b) eliminate restrictions in bulk, tank vehicles or hopper type vehicles in Sub-6, 12, 16, 17, 22, 23, 27, 29, 36, 40, 47, 54, 59, 61, 70, 71, 76, 78, 86, 91, 102, 111, 114F, 115F, 118F, 119F, 121F, 123F, 124F, 125F, and 127F, (6) expand the territorial description from one-way to radial authority primarily between midwestern States in Sub-12, 17, 22, 23, 27, 29, 36, 40, 47, 54, 59, 61, 70, 71, 73, 76, 78, 82, 86, 91, 92, 102, 111, 114F, 115F, 118F, 119F, 121F, 123F, 124F, 125F, and 127F, (7) eliminate the facilities limitations in Sub-16, 22, 27, 29, 54, 61, 69, 70, 73, 102, 111, 115F, 121F and 125F and (8) authorize county-wide authority: in Sub-12 and 40, Douglas County, KS, for Lawrence, KS, in Sub-27, from Kearney, MO to Clay County, MO, from Moberly, MO to Randolph County, MO, in Sub-36, from Coffeyville, KS to Montgomery County, KS, from Ava, MO to Douglas County, MO, from Neodasha, KS to Wilson County, KS, from Chanute, KS to Neosho County, KS; in Sub-47, from Weaverly, MO to Lafayette County, MO; in Sub-69, from Dodge City KS to Ford County, KS; in Sub-70 from Wathena, KS to Doniphan County, KS; in Sub-73 from Conway, KS to McPherson County, KS; in Sub-86 from Springfield, MO to Green County, MO; and in Sub-121F from Nevada, MO to Vernon County, MO.

MC 113855 (Sub-522)X, filed February 11, 1981. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, SE., Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. Applicant seeks to remove restrictions in its Sub-350 certificate to (1) broaden its commodity description from processed sulfur (except in bulk, in tank vehicles), to "Chemicals and related products", (2) replace its one-way authority with radial authority, between ports of entry on the United State-Canada Boundary line, located at points in Montana, and points in CA, CO, ID, IL, IN, IA, KY, MI, MN, MO, MI, NE, NV, ND, OH, OR, SD, UT, WA, WI, and WY, and (3) eliminate the restriction restricting transportation to traffic originating at points in the Province of Alberta, Canada.

MC 115233 (Sub-8)X, filed February 12, 1981. Applicant: MARSHALL STORAGE COMPANY, P.O. Box 145, Marshall, MN 56258. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Applicant seeks to remove restrictions from its lead and Sub-4F, 6F, and 7F certificates to (1) broaden its commodity description from sugar, canned foodstuffs, and sugar (except in bulk), to "food and related products" in each certificate; (2) change its one-way authority to radial authority between several midwestern States; and replace specified plantsites or cities with county-wide authority (a) Marshall, MN, with Lyon County, MN, 13 cities in SD, with Brown, Lincoln, Brookings, Beadle, Lake Grant, Davison, Spink, Bon Homme, Minnehaha, Roberts, Codington, and Yankton Counties, SD, in the lead certificate, (b) a named plantsite at Arlington and Ortonville, MN, with Sibley and Big Stone Counties, MN, and Bloomer, WI, with Chippewa County, WI, in Sub-Nos. 4F and 6F, and (c) a named plantsite at 5 cities in MN, with Carver, Polk, Hennepin, and Clay Counties, MN, Drayton, ND, with Pembina County, ND, in Sub-7F, part (1), and a named plantsite near Renville, MN, with Renville County, MN, in part (2); and (3) eliminate the originating at and destined to restriction in Sub-6F.

MC 119493 (Sub-406)X, filed February 10, 1981. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). Applicant seeks to remove restrictions in its Sub-361F, 376F, and 400F certificates to (1) broaden its commodity descriptions from general commodities (with the usual exceptions), to "general commodities (except classes A and B explosives)", in each certificate, (2) eliminate the facility restriction of a named plantsite at Richmond County, GA, and remove the originating at and destined to restriction in Sub-361F, and (3) eliminate the restriction against transportation of AK and HI traffic, in each certificate.

MC 119934 (Sub-236)X, filed February 13, 1981. Applicant: ECOFF TRUCKING, INC., R.R. 10, Box 100A, Greenfield, IN 46140. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Applicant seeks to remove restrictions in its Sub-136 certificate to (1) expand the territory to include county-wide authority from Depue, Colfax, Riverdale, to Bureau, McLean, and Cook Counties, IL, and (2) broaden its one-way authority to radial authority between points in Bureau, McLean and Cook Counties, IL and Des Moines, IA, and points in IL, IA, IN, MI, OH, WI, MO, KS, NE, SD, ND and MN.

MC 124211 (Sub-383)X, filed February 12, 1981. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same as above). Applicant seeks to remove restrictions in its Sub-296, 300, 311, 320F, and 336F certificates to (1) remove "except commodities in bulk" restrictions, (2) eliminate various plantsites and originating at or destined to facilities restrictions for example: General Felt Industries at Los Angeles, CA, Chicago, IL, Fort Wayne, IN, Council Bluff, IA, Columbus and Tupelo, MS, Trenton, Greensboro, NC,

Eddystone, Fallsington, and Philadelphia, PA, Shelbyville, TN and Dallas TX in Sub-296; Block Drug Company, Inc. at Jersey City, NJ, in Sub-311; (3) eliminate restrictions against service in AK and HI in Sub-296, 300, 311, and 320F, (4) broaden territorial descriptions from one-way authority to radial authority to authorize service between specified cities or counties and points in the United States over irregular routes in Sub-296, 311, 320F, and 336F. Applicant also seeks to (1) eliminate "except self-propelled vehicles weighing individually in excess of 1,000 pounds, and commodities which, by reason of size or weight, require special equipment" restrictions in Sub-320F, and (2) remove the restriction against the transportation of traffic moving from (a) plantsites at Trenton, NJ and Philadelphia, PA, to points in IA, MN, SD, and ND, and at Council Bluffs, IA, to points in MN in Sub-296; (b) points in Kent County, MI, to points in Cook County, IL in Sub-300; and against traffic moving to points in Lancaster County, NE in Sub-320F.

MC 124211 (Sub-384)X, filed February 12, 1981. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same as above). Applicant seeks to remove restrictions in its Sub-371F certificate which authorizes the transportation of specified commodities (except in bulk) between points in the U.S. (except AK and HI) restricted to service to a specified shipper's facilities at unnamed locations, by removing the restrictions "except in bulk" and "except AK and HI".

MC 127337 (Sub-25)X, filed February 12, 1981. Applicant: CHET'S TRANSPORT, INC., Charlotte, ME 04666. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., Pennsylvania Avenue and 13th Streets, N.W., Washington, DC 20004. Applicant seeks to remove restrictions in its Sub-22F certificate to, (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)", (2) eliminate a restriction limiting transportation of shipments to that having a subsequent movement by water, (3) authorize radial service in lieu of existing one-way authority between points in the U.S. and points in MA and ports of entry on the international boundary line located in ME, and (4) remove the exceptions of AK and HI.

MC 128677 (Sub-6)X, filed February 10, 1981. Applicant: PORTLAND EXPRESS, INC., P.O. Box 179, Portland, TN 37148. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Applicant seeks to remove restrictions from its lead and Sub-2 and 3F certificates to (1) broaden its commodity description from general commodities (with the usual exceptions), to "general commodities (except classes A and B explosives)"; (2) remove the restrictions in its regular-route authority which specify intermediate point service, to authorize service at all intermediate points (a) between Portland and Nashville, TN, in the lead certificate, (b) between Mitchell, TN, and Louisville, KY, and between Mitchell and Nashville, TN in Sub-2, and (c) between Nashville and Memphis, TN, in Sub-3F; (3) eliminate the restrictions (a) prohibiting service at Mitchellville, TN, and junction U.S. Highway 31-W and Tennessee Highway 25, in the lead certificate, (b) prohibiting transportation of shipments originating at and destined to or interlined at named points, in Sub-2, and (c) limiting service for the purposes of "joinder only" at Nashville, TN, on a route between Nashville, Memphis, TN, in Sub-3.

MC 133591 (Sub-138)X, filed February 12, 1981. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, Jr., 58 South Main Street, Winchester, KY 40391. Applicant seeks to remove restrictions in its Sub-111F certificate to (1) broaden the commodity description from general commodities (with the usual exceptions and lumber and lumber products, iron and steel articles, and meat, meat products, meat by-products and articles distributed by meat packinghouses) to "general commodities (except classes A and B explosives and commodities which, because of size or weight, require use of special equipment)," and (2) authorize radial service between points in AR and points in CA and OR and between points in MO and points in CA, OR, TX, and WA.

MC 135633 (Sub-20)X, filed February 11, 1981. Applicant: NATIONWIDE AUTO TRANSPORTERS, INC., 140 Sylan Avenue, Englewood Cliffs, NJ 07632. Representative: Harold G. Hernly, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313. Applicant seeks to remove restrictions in its (Sub-1 and 10) certificates to (1) broaden the commodity description to "transportation equipment" from (a) automobiles (other than those moving to or from a point of manufacture or assembly) new, used, unfinished and wrecked, in subsequent or secondary movement in driveway service, in (Sub-1), and (b) automobiles in secondary movement in driveway service, in (Sub-10); (2) remove the restriction against radial service between plantsites or other facilities including railheads of Ford Motor Company in the Chicago, IL, commercial zone, as defined by the Commission, and, points in IL, IN, MI, WI, IA, MN, and OH, in (Sub-1).

MC 136155 (Sub-8)X, filed February 11, 1981. Applicant: GAY TRUCKING COMPANY, P.O. Box 7179, Savannah, GA 31408. Representative: William P. Sullivan, 818 Connecticut Ave., N.W., Washington, DC 20006. Applicant seeks to remove restrictions in its lead and (Sub-2, 6, and 7) certificates to (a) broaden the commodity descriptions from (1) roof slabs and materials used in the installation of roof slabs to "building materials", and wood excelsior to "lumber and wood products" in the lead; (2) general commodities (with the usual exceptions and restriction against motor vehicles) to "general commodities (except Class A and B explosives)" in (Sub-2); (3) from electrolytic copper in cathodes in (Sub-6) and iron and steel articles in (Sub-7) to "metal products"; (b) delete the plantsite limitation at Brunswick, GA in the lead, (c) replace city wide authority with county-wide authority from Brunswick, GA to Glynn County, GA in the lead, Charleston, SC to Charleston County, SC, Jacksonville, FL to Duval County, and Savannah, GA to Chatham County, GA in (Sub-2), (d) broaden the territorial description from one-way authority to radial authority between Glynn County, GA, and, points in 20 named States in the lead and, (e) remove the restriction limiting transportation to that moving in containers or trailers having an immediately prior or subsequent movement by water in (Sub-2) that having a prior or subsequent movement by water in (Sub-6).

MC 138157 (Sub-261)X, filed February 9, 1981. 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). Applicant seeks to remove restrictions in its (Sub-10 and 93F) certificates to (1) broaden the commodity description from industrial fluorescent lighting fixtures and parts thereof, and hospital equipment to "building materials and such commodities as are dealt in by hospitals" in (Sub-10); and from medical equipment, medical materials, and medical supplies to "such commodities as are dealt in by hospitals" in (Sub-93F), (2) eliminate restrictions against the transportation of blood and derivatives of blood in (Sub-93F), (3)

remove a restriction to traffic originating at named facilities in (Sub-93F), and (4) authorize radial authority in place of existing one-way authority between Los Angeles, CA and points in the eastern half of the United States in (Sub-10), and between points in Los Angeles, CA and points in 5 States in 93F.

MC 140615 (Sub-60)X, filed February 13, 1981. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown (same as above). Applicant seeks to remove restrictions in its (Sub-30F) to (1) broaden the commodity description from foodstuffs (except in bulk) to "food and related products", (2) remove specified origin plantsites and replace with city-wide authority: New York, NY, Philadelphia, PA, and Port Newark and Jersey City, NJ, (3) replace authority to serve Monett and Carthage, MO with county-wide authority to serve Barry and Jasper Counties, MO, (4) broaden the one-way authority to radial authority between points in named cities and counties and points in IL, IN, MN, MI, OH, and WI, and (5) eliminate the restriction limiting service to the transportation of traffic originating at the named origins.

MC 141968 (Sub-4)X, filed February 9, 1981. Applicant: WINN EXPRESS COMPANY, INC., 1780 Nolan Court, Morrow, GA 30260. Representative: John P. Tucker, Jr., 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Applicant seeks to expand the territorial description in its (Sub-3F) permit to authorize service "between points in the U.S." under coninuing contract(s) with named shippers.

MC 142508 (Sub-163)X, filed February 5, 1981. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its (Sub-6, 11, 33F, 40F, 60F, 90F, and 148F) permits by (a) broadening its commodity descriptions in (Sub-6, 11, 33F, and 40F) from motor vehicle parts and supplies, in its (Sub-60F) from wheels, wheel rims, hubs and clamps and mounting hardware for wheels and wheel rims; and in its (Sub-148F) from automobile parts to "such commodities as are dealt in or used by motor vehicle parts and supplies stores"; (b) removing the "in bulk" restrictions in (Sub-33F and 40F); (c) replacing named facilities with county-wide and radial authority as follows: in (Sub-6); between points in Washoe, NV, (Reno, NV), and points in AZ, CA, ID, OR, UT and WA; in (Sub-11), between points in St. Louis County, MO (Creve Coeur, MO), and points in the U.S.; in (Sub-33F), between points in CT, NJ, NY, PA and RI and points in Washoe County, NV (Reno, NV), and Wyandotte County, KS (Edwardsville, KS) in part (1) and between points in MI and OH, and points in New York, NY and between points in Washoe County, NV and points in Wyandotte County, KS part (2) of (Sub-33F); in (Sub-40F) between points in Washoe County, NV (Sparks, NV), Denver, CO and points in TX; in (Sub-90F) between points in Montgomery County, AL (Montgomery, AL), Wyandotte County, KS (Edwardsville, KS), Washoe County, NV (Reno, NV), New York, NY, and Dallas, TX and points in the U.S.; in (Sub-148F) between points in Clay County, AR (Corning, AR), and points in the U.S.; (d) in (Sub-60F) replacing a named city with county-wide and radial authority between points in Will County, IL (Plainfield, IL) and points in the U.S.; (e) removing the restrictions limiting traffic originating at or destined to named facilities in (Sub-11, 33F, 40F, 60F and 90F), and (f) remove the exceptions of AK and HI from its nationwide grants in (Sub-90F, 148F, and 60F) and the exception of AK, HI, and MO in its (Sub-11).

MC 142515 (Sub-3)X, filed February 12, 1981. Applicant: S. T. TURNER TRUCKING, INC., Rural Route 1, Box 444, Nashville, IN 47448. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks removal of restrictions in its lead and (Sub-1F, and 2F), by (1) changing the commodity description in each to "transportation equipment" from automotive and truck parts, and materials, equipment and supplies used in their manufacture and distribution, and (2) expanding the territorial description to authorize service between points in the United States, under continuing contract(s) with a named shipper.

MC 144879 (Sub-II)X, filed February 9, 1981. Applicant: D & J TRANSFER CO., Highway 4 North, Sherburn, MN 56171. Representative: Lavern R. Holdeman, 521 S. 14th Street, Lincoln, NE 68501. Applicant seeks to remove restrictions in its (Sub-1F) certificate to (1) eliminate the restriction against transportation of foodstuffs and commodities in bulk, in its authority to transport such commodities as are dealt in by wholesale and retail, farm, home, and hardware supply business houses, (2) replace plantsite facilities restrictions with county-wide authority: Clay, Dickinson, and Hamilton Counties for Spencer, Spirit Lake, and Webster City, IA, (3) authorize radial in lieu of existing one-way service between points in the eastern half of the United States and the above counties.

MC 145297 (Sub-1)X, filed February 11, 1981. Applicant: VERN BREAZEALE FREIGHT SERVICE, INC., d.b.a. DENVER–LANDER–RIVERTON FREIGHT SERVICE, P.O. Box 347, Riverton, WY 82501. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. Applicant seeks to remove restrictions in its lead certificate to (1) broaden its commodity description from general commodities (with the usual exceptions), to "general commodities (except classes A and B explosives)", and (2) authorize service at all imtermediate points on its regular route authority between Denver, CO, and Riverton, WY.

MC 145359 (Sub-34)X, filed February 12, 1981. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions from its (Sub-2F, 5F, 8F, 10F, 11F, 12F, 16F, and 19F) certificates to (1) broaden its commodity descriptions from various metal products such as copper, brass, aluminum articles, bronze articles, non-ferrous metal, iron and steel pipe fittings, and foil containers, to "metal products", in each certificate, (2) expand its one-way authority to radial authority between several specified States, in each certificate; and to replace specified plantsites or cites with county-wide authority (a) a named plantsite at Rome, NY, with Oneida County, NY, in (Sub-2F and 16F), (b) 2 named plantsites at Clinton, IL, with DeWitt County, IL, in (Sub-5F), (c) a named plantsite at Lake Havasu City, AZ, with Mohave County, AZ, in (Sub-12F), and (d) Shelbyville, KY, with Shelby County, KY, (3) remove the restrictions (a) limiting transportation of traffic to a named plantsite facility located at Martins Ferry, OH, in (Sub-8F), and the named plantsite facilities located at Los Angeles, CA, in (Sub-10F and 12F), and (b) eliminate the originating at and destined to restrictions in (Sub-5F, 8F, 10F, and 12F).

MC 145359 (Sub-36)X, filed February 12, 1981. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions in its (Sub-1F, 23F, and 25F) certificates to (1) broaden the commodity description from aluminum, aluminum products, paper and paper products to "metal products and pulp, paper and related products" in (Sub-

25F), (2) replace authority to serve New Port, AR, with county-wide authority to serve Jackson County, AR, in (Sub-25F), (3) replace one-way authority with radial authority between CA, ID, OR, WA, and WY and points in IN south of a line as described therein, in (Sub-1F), and between points in the U.S. and Marion and Morgan Counties, IN, in (Sub-23F), (4) eliminate "except in bulk" and "except lumber and wood products, stone and commodities in bulk" restrictions in (Sub-1F), (5) remove the territorial restrictions against service to and from AK and HI in (Sub-23F and 25F), (6) remove the restriction limiting the service to the transportation of traffic originating at the named origins and destined to the described destination territory in (Sub-1F), and (7) eliminate the "in vehicles equipped with mechanical refrigeration" restriction in (Sub-23F).

MC 146891 (Sub-4)X, filed February 11, 1981. Applicant: A & G EXPRESS, INC., 4807 Millbrooke Rd., Albany, GA 31701. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Applicant seeks to remove restrictions from its (Sub-2) permit to (1) broaden the commodity from paper, paper products, cellulose products and materials, equipment, and supplies used in the manufacture there of (except in bulk), to "pulp, paper and related products and cellulose products" and (2) broaden the territorial description to "between points in the US", under a continuing contract(s) with a named shipper.

MC 147209 (Sub-5)X, filed February 9, 1981. Applicant: QUASAR EXPRESS, INC., 3920 S. Western Avenue, P.O. Box 40, Sioux Falls, SD 57101. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Applicant seeks to remove restrictions in its MC 111720 (Sub-13, 17, 19F, 21F and 24F) permits to (1) broaden the commodity description from meats, meat products, meat by-products and articles distributed by meat packinghouses (except hides and commodities in bulk) to "food and related products," and (2) broaden the territorial description to "between points in the United States," under continuing contract(s) with named shippers.

[FR Doc. 81-6343 Filed 2-24-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP3-173]

Decision-Notice

Decided: February 17, 1981.

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.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill. (Member Hill not participating).

Agatha L. Mergenovich,

Secretary.

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".

MC 14215 (Sub-91), filed Feb. 2, 1981. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commerical, Mingo Junction, OH 43938. Representive: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *metal articles*, between points in Philadelphia County, on the one hand, and, on the other, points in the U.S. in and east of MN, WI, IL, KY, TN, MS, and LA.

MC 40494 (Sub-16), filed Feb. 4, 1981. Applicant: HILBURN TRUCKING, INC., 1904 East 39th St., Independence, MO 64057. Representive: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW. Transporting *such commodities* as are dealt in or used by agricultural equipment, industrial equipment, construction equipment and lawn and leisure product manufacturers, distributors, and dealers, between points in MT, WY, CO, TX, OK, KS, NE, SD, ND, MN, IA, MO, IL, WI, MI, IN, and OH.

MC 45764 (Sub-39), filed Feb. 4, 1981. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 38, Essington, PA 19029. Representative: Richard C. McGinnis, 711 Washington Bldg., Washington, DC 20005. Transporting *machinery, transportation equipment, building meterials, metal products, and commodities* the transportation of which require the use of special equipment, between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, OH, DE, MD, VA, WV, NC, SC, GA, FL, IL, MN, and DC on the one hand, and, on the other, points in the U.S.

MC 52465 (Sub-50), filed January 27, 1981. Applicant: RICE TRUCK LINES, P.O. Box 399, Black Eagle, MT 59414. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Transporting *petroleum and petroleum products*, between points in WA and OR, on the one hand, and, on the other, points in MT and ID.

MC 53965 (Sub-183), filed February 3, 1981. Applicant: GRAVES TRUCK LINE, INC., P.O. Box 1387, Salina, KS 67401. Representative: Bruce A. Bullock, One Woodward Ave., Detroit, MI 48226. Transporting *general commodities* (except classes A and B explosives), (A) over regular routes, (1) between

Oklahoma City, OK and Memphis, TN, over Interstate Hwy 40; (2) between Dallas, TX and Jackson, MS, over Interstate Hwy 20, serving Tyler and Longview, TX as off-route points; (3) between Dallas, TX and Little Rock, AR, over Interstate Hwy 30; (4) between St. Louis, MO and Junction Interstate Hwy 10 and Interstate Hwy 55, over Interstate Hwy 55; (5) between Houston, TX and New Orleans, LA, over Interstate Hwy 10; (6) between Kansas City, MO and junction U.S. Hwy 71 and U.S. Hwy 190, near Cortableau, LA over U.S. Hwy 71; (7) between Alexandria, LA, and Monroe, LA, over U.S. Hwy 165; (8) between Baton Rouge, LA and Ragley, LA, over U.S. Hwy 190; (9) between Shreveport, LA and Lake Charles, LA, over U.S. Hwy 171; (10) between Springfield, MO and junction U.S. Hwy 65 and U.S. Hwy 84 near Ferriday, LA, over U.S. Hwy; 65; (11) between Alexandria, LA and Litttle Rock, AR, over U.S. Hwy 167; (12) between Little Rock, AR and St. Louis, MO, over U.S. Hwy 67; (13) between Memphis, TN and junction U.S. Hwy 63 and U.S. Hwy 60 near Willow Springs, MO, over U.S. Hwy 63; (14) between Cairo, IL and Springfield, MO, over U.S. Hwy 60; (15) between Houston and Texarkana, TX, over U.S. Hwy 59; (16) between Baton Rouge, LA and Memphis, TX, over U.S. Hwy 61; (17) between Texarkana, AR and Winona, MS, over U.S. Hwy 82; (18) between Tenaha, TX and junction U.S. Hwy 84 and Interstate Hwy 55, over U.S. Hwy 84; (19) between Tulsa, OK and Junction U.S. Hwy 64 and Interstate Hwy 40 at or near Warner, OK, over U.S. Hwy 64; and (20) between Beaumont, TX and Tenaha, TX, over U.S. Hwy 96; and (B) over irregular routes, between points in AR and LA.

Note.—Applicant intends to tacks this authority with its existing authority.

MC 98154 (Sub-21), filed January 27, 1981. Applicant: BRUCE CARTAGE INCORPORATED, 3460 E. Washington Road, Saginaw, MI 48601. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting *such commodities* as are dealt in or used by department stores (1) between the facilities of Montgomery Ward & Co., Inc., in Eaton County, MI, on the one hand, and, on the other, points in Allen, Warren, and Miami Counties, OH, and (2) between the facilities of Montgomery Ward & Co., Inc., in Eaton County, MI, and St. Joseph and Wayne Counties, IN.

MC 105375 (Sub-86), filed January 26, 1981. Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth Ave., Newport, MN 55055. Representative: Joseph A. Eschenbacher, Jr., P.O. Box 187, Newport, MN 55055. Transporting *commodities in bulk*, (1) between points in IL, IN, IA, KS, MI, MN, MO, ND, OH, SD, NE, and WI, and (2) between those points in the U.S. in and east of MT, WY, CO, and NM. Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of carrier's existing certificate in MC 105375 and related subs, at applicant's written request.

MC 107295 (Sub-1014), filed February 2, 1981. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting *metal products*, between points in Jessamine County, KY, on the one hand, and, on the other, points in the U.S.

MC 112304 (Sub-253), filed February 2, 1981. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John G. Banner (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between the facilities of General Tire & Rubber Company, its divisions and subsidiaries, in the U.S., on the one hand, and, on the other, points in the U.S.

MC 113325 (Sub-165), filed January 27, 1981. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh St., St. Louis, MO 63104. Representative: T. M. Tahan, 2001 South Seventh St., St. Louis, MO 63104. Transporting *commodities in bulk*, between points in IL, IA, and MO. Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of carrier's existing certificate in MC 113325 and related subs, at applicant's written request.

MC 116164 (Sub-14), filed January 27, 1981. Applicant: ARROW TRANSPORTATION CO., 1911 N.E. 58th Ave., Des Moines, IA 50313. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *insulation*, between points in the U.S., under continuing contract(s) with L & L Insulation & Supply Co., Inc., of Des Moines, IA.

MC 120184 (Sub-14), filed February 2, 1981. Applicant: PEP LINES TRUCKING CO., 32600 Dequindre Rd., Warren, MI 48902. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *general commodities* (except classes A and B explosives), between points in IL, IN, MI, and OH.

MC 121424 (Sub-5F), filed December 8, 1980, previously published in the **Federal Register** issue of January 8, 1981. Applicant: DAL-HAR DISTRIBUTION COMPANY, INC., 400 West Main Street, Dallas, TX 75208. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting (1) *machinery, and primary metal products*, and *fabricated metal products*, and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1), between points in TX, LA, AR, OK, NM, KS, and MO. Condition: Issuance of a certificate is subject to prior or coincidental cancellation, at applicant's written request, of Certificate of Registration MC 121424 (Sub-3).

Note.—This republication indicates the correct commodity description in (1).

MC 123415 (Sub-21), filed February 2, 1981. Applicant: JAMES STUFFO, INC., Cinnaminson Industrial Park, 2301 Garry Rd., P.O. Box 45, Cinnaminson, NJ 08077. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. and Cottman St., Jenkintown, PA 19046. Transporting *pulp, paper and related products*, between points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, and WV.

MC 127264 (Sub-6), filed January 27, 1981. Applicant: AMERICAN PARCEL SERVICE, INC., 212 Hermitage Road, Greensboro, NC 27403. Representative: Guy H. Postell, 3384 Peachtree Rd., NE, Suite 713, Atlanta, GA 30326. Transporting *such commodities* as are dealt in or used by manufacturers of cosmetics, between points in the U.S., under continuing contract(s) with Avon Products, Inc., of New York, NY.

MC 134105 (Sub-559), filed January 27, 1981. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Ave., Chattanooga, TN 37408. Representative: James E. Elgin (same address as applicant). Transporting *chemicals and related products*, between points in Davidson County, TN, on the one hand, and, on the other, points in the U.S. in and east of CO, ND, SD, NE, OK, and TX.

MC 134235 (Sub-30), filed January 27, 1981. Applicant: KUHNLE BROTHERS, INC., P.O. Box 375, Newbury, OH 44065. Representative: Ronald W. Malin, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701. Transporting *construction materials*, between points in Erie County, NY, on the one hand, and, on the other, points in PA, WV, and OH.

MC 135185 (Sub-55), filed January 27, 1981. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 66, 52275 U.S. Highway 31 North, South Bend, IN 46624. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203.

Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Eli Lilly and Company, of Indianapolis, IN.

MC 138714 (Sub-9), filed February 4, 1981. Applicant: VIRGINIA TRANSPORTATION, INC., Box 26449, Richmond, VA 23261. Representative: Eric Meierhoefer, Suite 423, 1511 K St. NW., Washington, DC 20005. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Rehrig International, Incorporated, of Richmond, VA.

MC 141804 (Sub-537), filed February 2, 1981. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. Transporting (1) *clay, glass or stone products,* between points in Middlesex and Monmouth Counties, NJ, Okmulge County, OK, Scott, Carver and Hennepin Counties, MN, and Dougherty, Houston, Talladega and Wilkensen Counties, GA, on the one hand, and, on the other, points in the U.S.; (2) *pulp, paper and related products,* between points in Calumet, Outagamie and Winnebago Counties, WI, on the one hand, and, on the other, points in the U.S.; (3) *machinery,* between Dallas, McLennan and Tarrant Counties, TX, Marshall, Plymouth, Polk, Warren and Woodbury Counties, IA, Allen and Franklin Counties, OH, Arkansas County, AR, Rutherford County, TN, Houston County, GA, Johnson and Wyandotte Counties, KS, and Tulare County, CA, on the one hand, and, on the other, points in the U.S.; (4) *food and related products,* between points in IL, on the one hand, and, on the other, points in the U.S.; and (5) *batteries,* between points in Berks and Lancaster Counties, PA, Greenville, and Spartanburg Counties, SC, Dallas County, AL, Clinton County, IN, Saline County, KS, Dallas County, TX, and Los Angeles County, CA, on the one hand, and, on the other, points in the U.S.

MC 143394 (Sub-20), filed January 27, 1981. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same address as applicant. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Northeastern Pennsylvania Shippers Cooperative Association, Inc., of Dunmore, PA.

MC 143394 (Sub-21), filed January 27, 1981. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same address as applicant. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with West Coast Shippers Association, of Philadelphia, PA.

MC 145085 (Sub-2), filed February 2, 1981. Applicant: SID'S, INC., P.O. Box D, Jonesport, ME 04649. Representative: James E. Mahoney, 148 State St., Boston, MA 02109. Transporting (1) *food and related commodities,* between points in ME, NH, VT, MA, RI, CT, NY, FL, and CA, on the one hand, and, on the other, points in the U.S.; and (2) *tires, batteries and accessories,* between points in ME, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 145494 (Sub-4), filed February 2, 1981. Applicant: EDINA CARTAGE COMPANY, a corporation, P.O. Box 42, Mauricetown, NJ 08329. Representative: Laurence J. DiStefano, Jr., 1101 Wheaton Ave., Millville, NJ 08332. Transporting *medical supplies,* between the facilities of Sherwood Medical Industries, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 145895 (Sub-6), filed February 27, 1981. Applicant: STATE TRANSPORTATION, INC., Route 1 Bypass, P.O. Box 1349, portsmouth, NH 03801. Representative: Robert G. Parks, 20 Walnut st., Suite 101, Wellesley Hills, MA 02181. Transporting *pulp, paper, and related products,* between points in the U.S., under continuing contract(s) with Scott Paper Company, of Philadelphia, PA.

MC 148035 (Sub-8), filed February 27, 1981. Applicant: QUANDT TRANSPORT SERVICE, INC., 2606 North 11th St., Omaha, NE 68110. Representative: Arlyn L. Westergran, 9202 West Dodge Rd., Suite 201, Omaha, NE 68114. Transporting *chemicals and related products,* between points in NE, on the one hand, and, on the other, points in IA, MN, and SD.

MC 149014 (Sub-2), filed February 3, 1981. Applicant: EAGLE LINES INC., P.O. Box 902, Merrimack, NJ 03054. Representative: Henry Sepessy, 10 Canterberry Way, Merrimack, NH 03054. Transporting *transportation equipment,* between Chicago, IL, and Pennsauken and Newark, NJ, on the one hand, and, on the other, points in NH.

MC 150954 (Sub-12), filed January 27, 1981. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8919 Tesoro Drive, Suite 515, San Antonio, TX 78217. Transporting (1) *lumber and wood products,* and (2) *building materials,* between points in Amador, Fresno, Madera, Placer, and San Joaquin Counties, CA, Ada, Gem, Idaho, Kootenai, and Washington Counties, ID, Crook, Deschutes, Douglas, Jackson, Josephine, Klamath, and Lane Counties, OR, and Cowlitz, Lewis, and Snohomish Counties, WA, on the one hand, and, on the other, points in the U.S.

MC 153935, filed January 30, 1981. Applicant: EXECUTIVE MOTOR TOURS, INC., 81 Brookfield Ave., Staten Island, NY 10308. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. As a *broker,* at Staten Island, NY, in arranging for the transportation of *passengers and their baggage,* between points in the U.S.

[FR Doc. 81-6348 Filed 2-24-81; 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** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each

applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP3–175

Decided: February 18, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

MC 30114 (Sub-12), filed February 4, 1981. Applicant: MOLA TRUCKING, INC., d.b.a. MITCHKO TRUCKING, 650 Myrtle Ave., Boonton, NJ 07005. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07306. Transporting *shipments* weighing 100 pounds or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 136844 (Sub-4), filed February 5, 1981. Applicant: HENRY BRISTOL, d.b.a. B & B TRANSPORT & LEASE, P.O. Box 877, Palatine, IL 60067. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 150365 (Sub-1), filed January 30, 1981. Applicant: UNITED LIMO, INC., 12495 McKinley Hwy., Mishawaka, IN 46544. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 153884, filed February 4, 1981. Applicant: GLENCO BROKERAGE, Box 2145, 737 West 22nd Ave., Casper, WY 82602. Representative: Glen D. Corman, 1137 West 22nd, Casper, WY 82601. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 153954, filed February 5, 1981. Applicant: CONNER TRAFFIC ASSOCIATES, INC., Arbutus Ave, Wenonah, NJ 08090. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 South 12th St., Philadelphia, PA 19107. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OP4–031

Decided: February 19, 1981.

By the Commission, review Board No. 3, Members Parker, Fortier, and Hill.

MC 22196 (Sub-1), filed February 3, 1981. Applicant: ACE WORLD-WIDE MOVING & STORAGE, INC., 2725 Whynaucht Ct., S.E., Rochester, MN 55901. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036. Transporting, for or on behalf or the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 138206 (Sub-20), filed January 28, 1981. Applicant: TRULINE CORPORATION, 4455 South Cameron Ave., Las Vegas, NV 89103. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NC 89701. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 153716 filed January 19, 1981. Applicant: UNIVERSAL TRANSCONTINENTAL CORPORATION, 325 Spring St., New York, NY 10013. Representative: S. S. Eisen, 370 Lexington Ave., New York, NY 10017. As a *borker of general commodities* (except household goods), between points in the U.S.

MC 153906, filed February 3, 1981. Applicant: LIONEL ABRAHAM CLOUD, d.b.a. LIONEL'S MOBILE HOME TRANSPORTING, Rural Route 4, Box 26, Baraboo, WI 53913. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 153926, filed February 2, 1981. Applicant: BANK COURIER SYSTEMS, INC., 3040 E. Illini St., Phoenix, AZ 85040. Representative: John Paul Fischer, 256 Montgomery St., Fifth Floor, San Francisco, CA 94104. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6347 Filed 2-24-81; 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** on July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed

service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before [45 days from date of publication], (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under Contract".

Volume No. OP1–041

Decided: February 13, 1981.

By the Commission, Review Board No. 1, members Carleton, Joyce, and Jones.

MC 60430 (Sub-34), filed January 28, 1981. Applicant: FRIEDMAN'S EXPRESS, INC., P.O. Box 480, Wilkes-Barre, PA 18703. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 134221 (Sub-3), filed January 28, 1981. Applicant: C. B. L. TRUCKING & LEASING, INC., P.O. Box 8, Delanco, NJ 08075. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *shipments weighting 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds*, between points in the U.S.

MC 152080 (Sub-1), filed January 29, 1981. Applicant: DEPENDABLE CARTAGE & TRANSPORTATION CO. INC.; 2159 West Hastings St., Chicago, IL 60608. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OP5-54

Decided: February 11, 1981.

By the Commission, Review Board No. 3, members Parker, Fortier, and Hill.

MC 125689 (Sub-14), filed January 21, 1981. Applicant: BEATTYVILLE TRANSPORT, INC.; Ice Dam Lane, P.O. Box 357, Catlettsburg, KY 41129. Representative: Fred H. Daly, 2550 M St., NW, Washington, DC 20037. Transporting, for and on behalf of the United States Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U. S.

MC 153728, filed January 12, 1981. Applicant: ALBERT J. POPE; 709 79th St., Darrien, IL 60559. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 153939, filed January 27, 1981. Applicant: THE A. W. FENTON CO., INC.; 6565 Eastland Rd., Brookpark, OH 44142. Representative: Maarten van der Biezen (same address as applicant). To operate, in interstate or foreign commerce, as a broker of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-6349 Filed 2-24-81; 8:45 am]

BILLING CODE 7035-01-M

[No. AB-26 (Sub-No. 21)]

Southern Railway Co. and Southern Railway-Carolina Division—Discontinuance of Service Between Hagood and Westville, SC and Abandonment—Between Camden and Westville, SC; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided January 21, 1981, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that the public convenience and necessity permit (a) the discontinuance of service by the Southern Railway Company and the Southern Railway-Carolina Division over a line of railroad extending between milepost SB–26 near Hagood, SC, and milepost SB–52, near Westville, SC, a distance of approximately 26 miles in Sumter and Kershaw Counties, SC, and (b) the abandonment by the Southern Railway-Carolina Division of the following portion of the above mentioned line in (a), extending between milepost SB–36 just south of Camden, SC, and milepost SB–52 near Westville, SC, a distance of approximately 16 miles in Kershaw County, SC, subject in (a) and (b) above, to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979). A certificate of discontinuance of service and of partial abandonment will be issued to the Southern Railway Company and the Southern Railway-Carolina Division based on the above-described finding of discontinuance of service and of partial abandonment, 30 days after publication of this notice, unless within 15 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 10423, no later than 10 days from publication of this Notice; and (2) it is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of discontinuance of service and of partial abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amount of compensation, a certificate of discontinuance of service and of partial abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of

the execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (Including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448, effective October 1, 1980). All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–6350 Filed 2–24–81; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–98]

Certain Screw Jacks and Components Thereof, Including Cold-Worked Pinion Gears; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: February 17, 1981.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 81–6248 Filed 2–24–81; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–97]

Certain Steel Rod Treating Apparatus and Components Thereof; Notice

Notice is hereby given that the Preliminary Conference in this investigation has been postpond at the request of the parties to 10:00 a.m., Friday, February 27, 1981. The Preliminary Conference will be held at the previously noticed address of 1010 Wisconsin Avenue, N.W., Suite 201, Washington, D.C. 20007.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: February 17, 1981.

Judge Donald K. Duvall,

Presiding Officer.

[FR Doc. 81–6247 Filed 2–24–81; 8:45 am]

BILLING CODE 7020–02–M

[731–TA–38 (Preliminary)]

Truck Trailer Axle-and-Brake Assemblies, and Parts Thereof, From Hungary; Notice of Institution of Preliminary Antidumping Investigation and Scheduling of Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from Hungary of truck trailer axle-and-brake assemblies, and parts thereof, provided for in items 692.32 and 692.60 of the Tariff Schedules of the United States, alleged to be sold at less than fair value.

EFFECTIVE DATE: February 19, 1981.

FOR FURTHER INFORMATION CONTACT: John MacHatton, Supervisory Investigator (202–523–0439).

Background. This investigation is being instituted following receipt of a petition on February 12, 1981, filed by Rockwell International Corp., Pittsburgh, Pa., on behalf of the domestic industry producing truck trailer axle-and-brake assemblies. The petition alleged sales at less than fair value of truck trailer axle-and-brake assemblies produced in Hungary.

Authority. Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) requires the Commission to make a determination of whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports alleged to be, or likely to be, sold in the United States at less than fair value. Such a determination must be made within 45 days after the date on which a petition if filed under section 732(b) or on which notice of an investigation commenced under section 732(a) is received from the Department of Commerce. Accordingly, the Commission, on February 19, 1981, instituted preliminary antidumping investigation No. 731–TA–38. This investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457) and, particularly, subpart B thereof.

Written submissions. Any person may submit to the Commission on or before March 9, 1981, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules and Practice of Procedures (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10 a.m., e.s.t., on March 5, 1981, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Persons wishing to participate in the conference should contact the supervisory investigator for the investigation, Mr. John MacHatton (202–523–0439). It is anticipated that persons in support of the petition for antidumping duties and persons opposed to such petition will each be collectively allocated 1 hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the supervisory investigator.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

Issued: February 19, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81–6249 Filed 2–24–81; 8:45 am]

BILLING CODE 7020–02–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Artists-in-Education Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Artists-in-Education Panel to the National Council on the Arts will be held on March 12–14, 1981 from 9:00 a.m.—5:30 p.m., in room 1422 of the Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C. 20506.

This meeting will be open to the public on a space available basis. The topic for discussion will be policy.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 19, 1981.

[FR Doc. 81–6285 Filed 2–24–81; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Byproduct Material License No. 37–00611–09; EA 81–25]

Automation Industries, Inc.; Order Suspending License and To Show Cause Why the Suspension of the License Should Not Be Continued, Pending Further Order

I

Automation Industries, Inc., Nuclear Encapsulation Facility, Kimberton Road, Route 113 South, Phoenixville, Pennsylvania 19460 (the "licensee") is the holder of Byproduct Material License No 37–00611–09 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes the company to fabricate, test, store and distribute sealed sources of iridium–192 for use in industrial radiography. The license was originally issued October 4, 1966 and has been renewed periodically, most recently on October 3, 1978. The license expires on October 31, 1983.

II

On February 2, 1981 at 4:35 p.m., Michael P. Santoro, General Manager of Automation Industries, Inc. reported to the NRC's Region I office by telephone overexposures to the thumbs of two employees. He stated that a medical consultant, Dr. Roger Linnemann, had confirmed the injuries as radiation induced and that the exposures were discovered on January 29 and 30, 1981. The employees were removed from work involving exposure to radiation.

On February 3, 1981 at 9:50 a.m. a telegram was received in Region I from Michael P. Santoro, Automation Industries, Inc. notifying the Commission of apparent excess radiation exposure to the thumbs and fingernails of two radiation technicians while working in a restricted area.

On February 3, 1981 an Immediate Action Letter was sent to Automation Industries, Inc. By Region I documenting the understanding from a telephone conversation between Mr. Santoro, Automation Industries, Inc. and Mr. James Allan, Deputy Director, Region I on February 3, 1981, that Automation Industries, Inc. would cease using the ten-cavity iridium cleaning bank for decontaminating and wipe testing sources, provide fingertip dosimetry for each employee involved in cleaning and wipe testing sources, change and evaluate this dosimetry on a daily basis, and remove the two exposed employees from all radiation work except for the use of remote manipulator.

On February 11, 1981 an immediate Action Letter was sent to Automation Industries, Inc. by Region I documenting the understanding from a telephone conversation between Mr. Santoro, Automation Industries, Inc. and Mr. James Allan, Deputy Director, Region I on February 11, 1981, that Automation Industries, Inc. would use only an approved Automation Industries, Inc. radiography exposure device for decontamination and leak testing of sources until the NRC has approved alternate procedures, and that Automation Industries, Inc. would submit all such procedures to the USNRC, Materials Licensing Branch, Washington, DC by February 20, 1981 for approval.

III

An investigation of this matter was conducted on February 3, 1981. Preliminary findings indicate that the overexposures occurred during the performance of a daily source-cleaning procedure. Estimates of the magnitude of the exposures to the fingertips are in the range of thousands of rems based on observed physical effects to the extremities.

Other findings indicate that the licensee:

(1) knew of a possible overexposure by at least as early as November 1980;

(2) did not report the overexposures to the Commission immediately as required by 10 CFR 20.403(a);

(3) did not take action until January, 1981 to preclude other exposures as required by 10 CFR 20.101; and

(4) may have sought to conceal the injury to one of its employees from the NRC by directing the employee:

(a) to wear gloves on January 21, 1981, the day on which an NRC inspection was conducted;

(b) to stay away from the NRC inspector; and

(c) not to reveal the radiation injury to the inspector.

IV

From the foregoing, it appears that the licensee, with careless disregard for Commission requirements, willfully: (a) failed to inform the Commission of a radiation incident as required by 10 CFR 20.403(a); and (b) failed to take action to protect its workers' health and safety in accordance with 10 CFR Part 20. It also appears that the licensee attempted to mislead a Commssion inspector during an inspection. Therefore, I have determined that in view of the willful violations and in order to protect the public health and safety, license No. 37–00611–09 should be suspended, effective immediately.

V

In view of the foregoing and pursuant to Section 161(b) of the Atomic Energy Act of 1954, as amended, and the regulations in 10 CFR Parts 2, 20 and 30, It Is Hereby Ordered That:

A. License No. 37–00611–09 is suspended, effective immediately, and accordingly:

The company shall place all licensed material in secure storage and maintain the nuclear encapsulation facility at Kimberton Road, Route 113 South, Phoenixville, Pennsylvania in safe condition in accordance with the applicable provisions in 10 CFR Part 20.

B. The licensee show cause, in the manner hereinafter provided, why the suspension of License No. 37–00611–09 should not be continued, pending further order.

VI

The licensee may, within twenty-five days of the date of this Order, show cause as required by Section V.B, by filing a written answer under oath or affirmation setting forth the matters of fact and law upon which the licensee relies. Any answer to this Order which the licensee intends to satisfy the show cause requirement shall include specific plans, procedures, and facility modifications for conducting future activities with licensed material in compliance with Commission requirements. Appropriate changes in management or management controls should be included to demonstrate that information regarding employee safety will be appropriately responded to and information will be provided to the Commission on a timely basis. Upon failure of the licensee to file an answer within the time specified, the Director, Office of Inspection and Enforcement, may issue an order continuing the suspension of License No. 37–00611–09.

VII

The licensee, or any other person who has an interest affected by this Order may request a hearing no later than twenty-five days of the date of this Order. Any answer to this Order or any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Executive Legal Director at the same address. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). If a hearing is requested by the licensee or any person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. Any request for a hearing shall not stay the immediate effectiveness of Section V.A.

VIII

In the event a hearing is held, the issue to be considered at such hearing shall be whether the actions set forth in Section V should be sustained.

Dated at Bethesda, Maryland this 17th day of February, 1981.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

[FR Doc. 81-6289 Filed 2-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-10, 50-237, and 50-249]

Commonwealth Edison Co.; Notice of Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has respectively issued Amendment Nos. 33, 56, and 49, which revised License Nos. DPR-2, DPR-19, and DPR-25 for Dresden Nuclear Power Station Unit Nos. 1, 2 and 3, located in Grundy County, Illinois. The amendments are effective as of the date of issuance and are to be fully implemented within 60 days of Commission approval in accordance with the provisions of 10 CFR 73.55(b)(4).

The amendments add license conditions to include the Commission-approved Guard Training and Qualification Plan as part of the licenses.

The licensee's filing, which has been handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendments.

The licensee's filing dated August 16, 1979, and its revision submitted by letter dated August 11, 1980, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to this action, see (1) all of the amendments identified in the first paragraph of this Notice and (2) the Commission's related letter to the licensee dated February 11, 1981. Items (1) and (2) are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60601. A copy of the amendments and the Commission's related letter 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 11th day of February, 1981.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-6290 Filed 2-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-366]

Georgia Power Company, et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. NPF-5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised the license and the Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant Unit No. 2 (the facility) located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to establish revised safety and operating limits for Hatch Unit No. 2 operation during Cycle 2 with Reload 1 fuel inserted. The amendment also removes three satisfied license conditions as required for operation beyond the first cycle.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 17, 1980, as supplemented January 30, 1981, (2) Amendment No. 21 to License No. NPF-5, 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 Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of February 1981.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-6291 Filed 2-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-466 CP]

Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1); Order

February 19, 1981.

The Board's Order of November 25, 1980 directed that the environmental phase of the evidentiary hearing would commence on January 12, 1981 to receive evidence regarding the application of Houston Lighting and Power Company for a license to construct the Allens Creek Nuclear Generating Station, Unit 1. This Order reflected that the hearing would continue through March 6, 1981.

It now appears that an additional hearing session will be necessary in an effort to complete the taking of evidence upon environmental matters.

Accordingly, it is, this 19th day of February, 1981

Ordered

That an additional formal evidentiary session upon environmental matters will be held at the Bates College of Law (Krost Hall) in Houston, Texas, 4800 Calhoun, during the period March 16 through 19, 1981.[1] The hearings will begin at 9:00 AM and will recess at 5:00 PM. The public is invited to attend these hearings.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Administrative Judge.

[FR Doc. 81-6292 Filed 2-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Provisional Operating License No. DPR-16, issued to Jersey Central Power & Light Company (the licensee), which revised the license for operation of the Oyster Creek Nuclear Generating Station (the facility), located in Ocean County, New Jersey. The amendment is effective as of its date of issuance. The Guard Training and Qualification plan is to be fully implemented within 60 days of Commission approval in accordance with 10 CFR 73.55(b)(4).

The amendment adds a license condition to include the Commission-approved Guard Training and Qualification Plan.

The licensee's filing, which has been handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filing dated July 28, 1980, and its revision dated January 7, 1981, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR Section 9.12.

For further details with respect to this action, see (1) Amendment No. 53 to License No. DPR-16, and (2) the Commission's related letter to the licensee dated February 11, 1981. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of Febraury 1981.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-6293 Filed 2-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications for the facility regarding the nomenclature describing the analyses of radioactive contamination of the secondary coolant and modifies the procedures on the use of the key-operated shutdown bypass switch associated with each reactor protection channel during reactor power operation to allow its use for required maintenance or testing.

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 in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 28, 1977, (2) Amendment No. 62 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555, and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of February 1981.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-6294 Filed 2-24-81; 8:45 am]

BILLING CODE 7590-01-M

[1] The hearing room will be unavailable on March 20, 1981.

[Docket No. 50-344]

Portland General Electric Co.; Relocation of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has relocated the local public document room (LPDR) for Portland General Electric Company's Trojan Nuclear Plant from the Columbia County Courthouse, St. Helens, to the Multnomah County Library, Portland, Oregon.

Members of the public may now inspect and copy documents and correspondence related to the licensing and operation of the Trojan Nuclear Plant at the Multnomah County Library, 801 SW 10th Avenue, Portland, OR 97205. The Library is open on the following schedule: Monday through Thursday 9 a.m. to 9 p.m. and Friday and Saturday 9 a.m. to 6:30 p.m.

For further information, interested parties in the Portland area may contact the LPDR directly through Mr. James Takita, Reference Librarian, telephone number (503) 226-8511. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room, 1717 H Street, NW., Washington, DC 20555, telephone number (202) 634-3273. The cost of ordering records from the Public Document Room is 5¢ per page, plus postage and handling.

Questions concerning the availability of documents at the Torjan LPDR and the NRC's local public document room program in general should be addressed to Ms. Jona L. Souder, Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number 800-638-8081 toll free.

Dated at Bethesda, Maryland, this 18th day of February 1981.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 81-6295 Filed 2-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-376 CP]

Puerto Rico Electric Power Authority (North Coast Nuclear Plant, Unit 1); Memorandum and Order Granting Applicant's Motion for Termination of Proceeding, and Granting Without Prejudice the Withdrawal of Application

February 18, 1981.

On September 11, 1980, Applicant (the Authority) filed a Motion For Termination Of Proceeding in light of the fact that on the same date it had filed a Withdrawal Of Application. On September 19, 1980, the NRC Staff filed an Answer which stated it did not oppose Applicant's motion. On September 18, 1980, Intervenors filed with the Commission a Motion For Direct Certification To Request Application Be Dismissed With Prejudice And Addendum, which the Applicant and Staff opposed in Responses respectively filed on October 3 and October 8, 1980. In an Order dated October 17, 1980, the Commission declined to grant directed certification and transferred Intervenors' Motion to this Board for decision. We understood that we had been directed by the Commission to determine whether, in granting Applicant's Withdrawal of Application, we should dismiss the application with prejudice. Thus, on November 19, 1980, we ordered that Intervenors, if they so desired, could file a submission by December 4, 1980 responding solely to Applicant's and Staff's argument that the North Coast construction application be dismissed without prejudice. In that Intervenors' Reply of December 3, 1980, advanced a new argument, the Board ordered that Applicant and Staff could respond thereto by December 31, 1980. Applicant filed its Reply and the Staff filed its Memorandum on December 31, 1980.

Memorandum

In light of the fact that Applicant had simultaneously filed a Withdrawal of Application, its Motion for Termination of Proceeding requested that the Board terminate this proceeding. Apparently, the Authority believed that it had an absolute right to have its Withdrawal of Application granted without prejudice, since it did not show good cause for the withdrawal of its application. However, § 2.107 of the Commission's Rules of Practice, which is similar to Federal Rule of Civil Procedure 41(a)(2), provides that the withdrawal of an application after the issuance of a notice of hearing [1] shall be on such terms as the presiding officer may prescribe. Since this Board, after reviewing the circumstances, in its discretion could impose terms in its Order granting the withdrawal of the application, obviously Applicant does not have such an absolute right. Thus, we must determine from the record before us whether we should grant the withdrawal of application without prejudice, or grant it with prejudice, which is the only term or condition the Intervenors seek to have imposed.

In their Motion For Direct Certification and Addendum of September 18, 1980, in substance, the Intervenors urged that, since the Applicant had clearly abandoned any intention of constructing the nuclear plant, the application for a construction permit should be dismissed with prejudice lest at a future date the Applicant might pursue the construction permit which would result in further expensive and time-consuming litigation. In their Reply of December 3, 1980, opposing the Applicant's and the Staff's responses, the Intervenors argued that a dismissal of the application for a construction permit without prejudice would be prejudicial to the public interest in leaving the door open for further wrongful actions and subsequent litigation. Intervenors alleged that in the past the Authority had engaged in wrongful actions in "deceiving the Board, the Staff and Intervenors alike by not coming out straightforwardly when deciding not to build the nuclear plant, by secretly reversing the expropriations of the land already acquired to site the nuclear plant, [and] by hiding such actions and information from all other parties while continuing to pursue the Application for over four years". (p. 4)

Intervenors concentrate upon one such alleged wrongful action, *viz*, that at no time did the Applicant reveal to the Board and to the parties that, on August 5, 1976, it had begun filing Motions of Desistance requesting that the Court of Expropriation of the Superior Court of Puerto Rico authorize the withdrawal of its suits for expropriation of lands for the proposed site which had been initiated on May 23, 1975 and authorize the recovery of the funds set aside for the original owners of these properties (pp. 4-5).

Two factors have been considered by the Board. First, we have considered whether the Intervenors will suffer some prejudice other than the mere prospect of a second lawsuit if we were to permit the withdrawal of the application without prejudice. See *Le Compte* v. *Mr. Chip, Inc.*, 528 F2d 601 (5th Cir. 1976); *Holiday Queen Land Corp.* v. *Baker*, 489 F2d 1031, 1032 (5th Cir. 1974), quoting *Durham* v. *Florida East Coast Ry. Co., 385 F2d 366 (5th Cir. 1967); 5 Moore's Federal Practice, § 41.05 at 41-72 (2d ed. 1980). Neither in their Motion for Direct Certification and Addendum of September 18, 1980 nor in their reply of December 3, 1980 do the Intervenors assert that they will suffer any legal harm other than leaving the door open for subsequent litigation. We weigh this*

[1] The Notice of Hearing was published on February 14, 1975 (40 Federal Register 6835).

factor in favor of granting the withdrawal of the application without prejudice.

Second, we have considered whether the public interest would be prejudiced should we allow the withdrawal of the application without prejudice. In its reply of December 31, 1980, the Authority denied that it had engaged in any deceitful, wrongful actions and cited various submissions wherein it had made known to the Board, Staff and Intervenors its intentions with regard to the instant proposed facility[2] and had provided information required for the Staff's review of the environmental and safety aspects of the site. In light of this record, Intervenors could not and do not pursue their barren allegation except to the extent, as indicated above, that they concentrate upon Applicant's alleged failure to notify all concerned that it had initiated reverse expropriation procedures. However, as Applicant points out, its actions were not hidden and no one was misled because a San Juan newspaper article of June 30, 1976 had publicly announced the authority's intention to desist from expropriation (Attch. C to Reply of December 31, 1980), and indeed Intervenors attached a copy of one of the motions to desist to their Petition of April 30, 1980 (Exhibit A). Moreover, the Authority asserts, and we agree, that its determination to cease expropriation proceedings in 1976 without formal notification to the NRC had no significance from the standpoint of NRC regulatory review because (1) it retained its statutory right of eminent domain which it could have exercised if it had decided to go forward with the project, (2) as was held in *New England Power Company* (NEP, Units 1 and 2), LBP–78–9, 7 NRC 271 (1978), an applicant's ownership of the land at a proposed site is not a condition precedent to the commencement of construction permit proceedings, (3) 10 CFR §§ 2.101(a–1) and 2.600 to 2.606 do not require that an Applicant must own a proposed site before an early review of site suitability issues can proceed, and because (4) in a letter to the NRC dated October 26, 1976, commenting upon the Draft Environmental Statement, it had stated that it did not own the site, and, as a result of its suggestion, page 1–1 of the Final Environmental Statement was amended to read that "The proposed facilities will be located on the Applicant's proposed 520-acre Islote site . . .". Finally, we conclude that the public interest would best be served by leaving open to the Applicant the nuclear option should changed conditions warrant.

Order

For all the foregoing reasons and based upon a consideration of the entire record in this matter, it is, this 18th day of February, 1981

Ordered that Applicant's Motion for Termination Of Proceedings is granted and its withdrawal Of Application is granted without prejudice.

The Atomic Safety and Licensing Board.

Richard F. Cole,

Administrative Judge.

Gustave A. Linenberger, Jr.,

Administrative Judge.

Sheldon J. Wolfe,

Administrative Judge.

[FR Doc. 81–6296 Filed 2–24–81; 8:45 am]

BILLING CODE 7590–01–M

[2] See pages 2–4 of Applicant's Reply of December 31, 1980. For example, as early as December 3, 1975, Applicant advised the Board and the parties that it had to decided to postpone indefinitely the nuclear plant project because energy demand had been lessened and because of worldwide inflation. While advising that it was discontinuing all design and fabrication efforts and that it would explore the possibility of selling the plant to another utility, the Authority stated its conviction that nuclear power was the only commercially viable alternative for power generation and indicated that it wished to discuss procedures leading to a determination upon site suitability. Again, for example, after the issuance of the Board's Order of May 1, 1978, which directed that Applicant submit status reports at prescribed intervals, on December 29, 1978, Applicant advised that it had terminated the contract with the nuclear steam supply system contractor but that it had not abandoned the nuclear option; that it would continue the generation expansion study considering nuclear power as a commercially available alternative; and that the Staff should complete and issue its site safety review. Finally, on December 29, 1979, the Authority advised that the next addition to its generating system would be a 300 megawatt coal-burning unit to meet its immediate needs, and thus, that consideration of nuclear capacity would be deferred for at least one year, and, in all likelihood, for a couple of years.

[Docket Nos. STN 50–483–OL, STN 50–486–OL]

Union Electric Co., (Callaway Plant, Unit 1); Prehearing Conference

Pursuant to 10 CFR 2.751(a) the Board hereby orders a special prehearing conference at 9:00 a.m., on March 24–25, 1981, at the Ramada Inn, 1510 Jefferson Highway, Jefferson City, Missouri.

The conference will be for the purpose of identification of the issues, any further actions on petitions that maybe necessary and to establish a future schedule for the proceedings.

Dated at Bethesda, Maryland this 19th day of February 1981.

For the Atomic Safety and Licensing Board.

James P. Gleason,

Administrative Judge.

[FR Doc. 81–6297 Filed 2–24–81; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11628 (812–4388)]

Merrill Lynch Ready Assests Trust, et al.; Application for an Order Pursuant to Sections 6(c) and 17(b) of the Act Exempting Applicants From Section 17(a) of the Act

February 18, 1981.

In the matter of Merrill Lynch Ready Assets Trust, CMA Money Trust, Merrill Lynch Asset Management, Inc., Fund Asset Management, Inc., Merrill Lynch Government Securities, Inc., and Merrill Lynch Money Markets Inc., 165 Broadway, New York, New York 10080; and Merrill Lynch Institutional Fund, Inc., and Merrill Lynch Government Fund Inc., 100 Federal Street, Boston, Massachusetts 02110.

Notice is hereby given that Merrill Lynch Ready Assets Trust ("MILRAT"), CMA Money Trust ("CMA"), Merrill Lynch Institutional Fund, Inc. ("MLIF"), and Merrill Lynch Government Fund, Inc. ("MLGF") (collectively, the "Funds"), and Merrill Lynch Asset Management, Inc. ("MLAM"), and Fund Asset Management, Inc., ("FAM") (collectively, the "Advisers"), and Merrill Lynch Government Securities, Inc. ("GSI") and Merrill Lynch Money Markets, Inc. ("MMI") (all of which are hereinafter collectively referred to as the "Applicants") have filed an application on November 13, 1978 and an amendment thereto on February 9, 1981, for an order of the Commission pursuant to Sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act"), for an exemption to permit the Funds and the Advisers to engag in certain principal transactions with GSI and MMI in the manner and subject to the conditions summarized below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that each Fund is a no-load, diversified, open-end management investment company registered under the Act. Applicants state that each Fund is a "money market fund" and seeks the safety of principal, liguidity and current income available from investing in a portfolio of money market securities, primarily short-term United States Government and

Government agency securities, bank money instruments (certificates of deposit and bankers' acceptances) and commercial paper. Each Fund has an investment advisory agreement with one of the Advisors pursuant to which the Advisor, subject to the general supervision of the Directors (or Trustees) of the Fund, provides investment advisory and management services.

Applicants represent that MLAM, a wholly-owned subsidiary of Merrill Lynch & Co., Inc. ("Merrill Lynch"), and FAM, a wholly-owned subsidiary of MLAM, are both registered investment advisers under the investment Advisers Act of 1940. MLAM and FAM have substantially the same identity with the same directors and executive officers, and, insofar as investment company operations are concerned, the same employees. In their respective contracts with the Funds, the Advisers are responsible for managing the portfolios, subject to the supervision of the Directors (or Trustees) of the Funds, and have the responsibility for making investment decisions and the placement of portfolio transactions.

According to the application, GSI, a wholly-owned subsidiary of Merrill Lynch, was organized in 1973. Applicants state that GSI is one of the largest dealers in money market securities, and is one of the Government securities dealers who report their daily position and trading to the Federal Reserve Bank of New York. GSI acts as both a primary dealer and distributor of Government and Government agency issues, and makes a market almost totally as principal in both Government and Government agency issues. The application indicates that MMI was organized in 1979 as a subsidiary to GSI and has assumed GSI's trading in bank money instruments, including certificates of deposit, bankers' acceptances and commercial paper.

Applicants represent that GSI, MMI, and the Advisers operate as completely separate entities under the umbrella of the Merrill Lynch holding company. While such corporations are under common control, each has its own separate officers and employees, each is separately capitalized, and each maintains its own separate books and records and operates as an independent profit center.

Applicants indicate that practically all trading in money market securities takes place in over-the-counter markets consisting of groups of dealer firms which are primarily major securities firms or large banks. The largest group of such dealers consists of the approximately 34 Government securities dealers (one of which is GSI) who report their daily positions and trading to the Federal Reserve Bank of New York. Money market securities are generally traded in round lots of $1,000,000 on a net basis and do not normally involve either brokerage commissions or tranfer taxes. The cost of portfolio securities transactions of the Funds consists primarily of dealer or underwriter spreads. Spreads generally do not exceed 25 basis points and decline on larger amounts. A typical spread for a portfolio transaction of one of the Funds is 12.5 basis points. The Applicants state that it has been the experience of the Funds that there is not a great deal of variation in the spreads charged by the various dealers.

Applicants assert that because of the variety of types of money market securities the money market tends to be highly segmented. The character of the market for a particular security will vary widely in terms of price, violatility, liquidity and availability. There are significant fluctuations in yield among the various types of securities and even within the various types depending upon the maturity date and the quality of the issuer.

Applicants further state that access to this market depends on access to the dealers and this access can only be obtained by being a participating customer of the dealers and thereby obtaining realistic quotations and information concerning issuers of money market securities. Best price and execution is normally achieved by obtaining competitive quotations from the competitive retail dealers with respect to a particular security.

It is asserted that GSI is among the largest competitive retail dealers in the money market and that MMI is among the largest competitive retail dealers in bank money market instruments. Being competitive means that such dealer has the security in inventory (or is willing to go short on such security) and is in a position to quote prices within the prevailing market range. It is claimed that GSI's share of the trading in U.S. Government securities maturing within one year has amounted to approximately 8% of the market and MMI's share of trading in bank money market securities is 10%.

The application states that, subject to policy established by the Directors (or Trustees) and officers of the Funds, the Advisers are primarily responsible for the Funds' portfolio decisions and placing of the Funds' portfolio transactions. In placing orders, it is the policy of the Funds to obtain the best net results taking into account such factors as price, the size, type, and difficulty of the transaction involved, the firm's general execution and operational facilities, and the firm's risk in positioning the secuirites involved. The Funds' policy of investing in securities with short maturities and their utilization of various yield improvement techniques results in high portfolio turnover. The application indicates that the investment policies of the Funds, the nature of the money market, and the fact that the Funds' shares are redeemable, require rapid acquisition and disposition of portfolio securities.

Because of the above-described affiliation of GSI and MMI with the Funds, the Funds are prohibited from making purchases from or sales to GSI and MMI of securities in transactions in which GSI or MMI acts as principal. Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from selling to or purchasing from such registered company, or any company controlled by such registered company, any security, of other property. Section 17(b) of the Act provides, however, that the Commission, upon application, may exempt a transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Section 6(c) provides that the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

On August 10, 1976, the Commission issued an order (Investment Company Act Release No. 9392) (the "1976 Order"), pursuant to Sections 6(c) and 17(b) of the Act granting an exemption from the provisions of Section 17(a) of the Act to permit MLRAT and MLAM to engage in certain principal transactions with GSI which would otherwise be prohibited by Section 17(a) of the Act. This exemption applies only to the short-term United States Government securities and Government agency

securities in which MLRAT may invest, and it specifies a number of conditions that must be met before transactions can be conducted. Among such conditions, all transactions must originate with MLRAT or MLAM, not with GSI, and a determination is required in each instance, based upon information available to MLRAT and MLAM, that the price available from GSI is "better than" that available from other sources. To be considered better than the quotation from other sources, Condition (4) of the 1976 Order provides that the GSI quotation must be at least one basis point better than that available from other sources if the quotation is made in terms of yield basis; if the quotation is made in terms of a dollar price, it must be at lease 1/64 of a dollar better than the quotation from other sources.

The application seeks to modify the 1976 Order in the following respects:

1. The proposed order would be applicable to CMA, MLIF, and MLGF, and their investment adviser, FAM, as well as to MLRAT, and its investment adviser, MLAM; and

2. Condition (1) of the 1976 Order would be revised to make it applicable to short-term bank money instruments (i.e., certificates of deposit and bankers' acceptances) issued by certain large commercial banks as well as short-term United States Government and Government agency securities; and

3. The proposed order would be applicable to transactions with MMI in the instruments covered by the order.

In all other respects, the exemptive order sought in the application will be subject to substantially the same conditions set forth in the 1976 Order.

The Applicants assert that the rationale behind each of these modifications is as follows:

1. At the time the 1976 Order was issued, the only advisory relationship that either of the Advisers had with a money market fund was MLAM's investment advisory agreement with MLRAT. Since such time, FAM has entered into investment advisory relationships with CMA, MLIF and MLGF. Each of these Funds is similar to MLRAT in terms of investment objectives and portfolio requirements. Therefore, the Applicants submit that the rationale behind the original issuance of the 1976 Order with respect to MLAM and MLRAT applies to FAM and CMA, MLIF and MLGF.

2. The 1976 Order applies only to United States Government and Government agency securities. Except for MLGF, which invests only in short-term Treasury Bills and notes, investments in Government and Government agency securities comprise only a portion of the Funds' assets. Investments in bank money instruments are equally significant to the Funds, other than MIGF, and at times comprise a greater portion of their assets. At August 31, 1980, for MLIF and September 30, 1980, for MLRAT and CMA, for example, 67.6%, 53% and 85.7% of their assets were invested in bank money instruments, respectively, while, at the same time, 17.5%, 30.9% and 2% of their assets were invested in Government and Government agency securities respectively.

Applicants assert that the 1976 Order was limited to United States Government and Government agency securities because such securities are exempt securities under Section 3(a)(2) of the Securities Act of 1933 and are subject to less risk than the other types of money market securities and because the market for such securities was deemed to have more depth and liquidity than other types of money market securities. It was believed that transactions involving such securities present less potential for abuse of the inherent conflicts of interest involved in transactions with affiliates. Bank money instruments are also exempt securities under Section 3(a)(2). Applicants state that compared to other money market securities, the bank money instruments in which the Funds may invest rank closely behind Government and Government agency securities in terms of quality and ahead of commercial paper. This is in part because of the regulated nature of the banking industry. According to their investment policies, MLRAT and CMA can only conduct transactions in short-term bank money instruments of United States commercial banks with more than $1 billion in assets, and MLIF can only conduct transactions in short-term bank money instruments of the 50 largest United States commercial banks. Applicants state that the risk of default that might otherwise exist is lessened further by the short-term nature of the instruments, the size requirements with respect to eligible issuers and the credit analysis to which the Advisers subject the issuers of bank money instruments. The Advisers believe that the bank money instruments in which the Funds invest have a minimal risk of default.

The Applicants assert that, in terms of depth and liquidity, the market for bank money market instruments ranks closely behind the market for Government securities. The bank money instrument segment of the market is considered to be much more liquid than the commercial paper market, the corporate bond market and the municipal bond market. However, as is the case with all money market securities, including Government securities, the secondary market at times becomes very fluid and its liquidity varies.

3. It is asserted that being able to conduct transactions with MMI would be advantageous to MLRAT, CMA, and MLIF as a competitive factor, even if never used, in negotiating prices with other dealers. If nothing else, the application states that access to MMI would be an important information source as to the prevailing market for bank money instruments. The application further states that access to MMI would be very helpful in the disposition of bank money instruments prior to maturity in the secondary market, especially at times when the secondary market may be in a fluid state. The size requirements of the Funds are another important factor making access to MMI desirable. Because of their large size, MLRAT and CMA need extremely large investments typically in the $10–50 million range, and MLIF seeks investments in the $5–25 million range. MMI would be helpful to the Funds with respect to both very large and very small purchases.

In making the foregoing request, Applicants agree that the following conditions may be imposed on the granting of an exemptive order:

1. The exemption will apply only to short-term United States Government and Government agency securities and bank instruments (i.e., certificates of deposit and banker's acceptances). In the case of MLRAT and CMA, the bank money instruments subject to the proposed order must be issued by United States commercial banks having at least $1 billion in assets. In the case of MLIF, such bank money instruments must be issued by one of the 50 largest commercial banks in the United States. For purposes of the order, short-term securities are defined to be securities having a maturity of no more than one year.

2. All transactions will originate with the Funds or their Advisers and not with GSI or MMI. No solicitation will be made of the Funds or the Advisers by GSI or MMI. In discussions with respect to proposed transactions between the Funds and GSI or MMI, GSI and MMI personnel will confine their activities to the response to inquiries from the Funds and the Advisers. Neither Merrill Lynch, Pierce, Fenner & Smith Incorporated nor Merrill Lynch & Co., Inc., will have any involvement with respect to proposed transactions between the Funds and the Advisers and neither will attempt to influence or control in any way the

placing by the Funds or the Advisers of orders with GSI or MMI.

3. Before any transaction will be executed with GSI or MMI, the Funds or the Advisers will obtain such information as they deem necessary to determine the most favorable price (as defined in Condition (4) below) available with respect to the transaction. Before any transaction will be executed with GSI or MMI, the Funds or the Advisers must check at least three other dealers to obtain a competitive quotation. With respect to prospective purchases of securities, these dealers must be those who have money market securities of the categories and the type desired in their inventories and who are in a position to quote favorable prices with respect thereto. With respect to the prospective disposition of securities, these dealers must be those who, in the experience of the Funds and the Advisers, are in a position to quote favorable prices.

4. A determination will be required in each instance, based upon the information available to the Funds and the Advisers, that the price available from GSI or MMI is "better than" that available from other sources. To be considered "better than" that available from other sources, the GSI or MMI quotation must be at least one basis point better than that available from other sources if the quotation is made in terms of yield basis; if the quotation is made in terms of a dollar price, it must be at least $\frac{1}{64}$ of a dollar better than the quotations from other sources.

5. GSI's and MMI's dealer spread in regard to any transaction with the Funds will be no greater than their customary dealer spreads, which in turn will be consistent with the average or standard spread charged by dealers in money market securities for the type of security and the size of transaction involved.

6. The exemption will be made subject to any regulations promulgated by the Commission under Section 11(a)(2)(B) of the Securities Exchange Act of 1934 which would otherwise prohibit or restrict in any way the ability of the Funds and/or the Advisers to conduct principal transactions with GSI and MMI.

7. The exemption will be valid only so long as the Advisers, GSI and MMI operate as separate entities within the holding company framework of Merrill Lynch & Co., Inc., with their own separate officers and employees, separate capitalization, and separate books and records.

8. The Funds and the Advisers will maintain records with respect to their transactions with GSI and MMI, including documentation of having obtained quotations from at least three other dealers with respect to each transaction. A schedule of all such transactions will be filed with the periodic reports filed by the Funds with the Commission pursuant to Sections 30(a) and 30(b)(1) of the Act.

9. The Legal Advisory Department of Merrill Lynch, Pierce, Fenner & Smith Incorporated will prepare guidelines for GSI and MMI personnel to make certain that the no-solicitation policy is followed, that the Funds receive rates as favorable as other institutional purchasers buying in the same quantities and that the parties maintain arm's-length relationships. The Legal Advisory Department will periodically monitor the activities of GSI and MMI in this regard to make certain that the above policy is adhered to.

10. The Audit Committees of the Board of Directors (or Trustees) of the Funds, consisting of the non-interested Directors (or Trustees), will prepare guidelines for the Funds and the Advisers to make certain that the Funds are obtaining best price and execution with respect to any transactions with GSI and MMI and that the above procedures are followed in all respects. The respective Audit Committees will periodically monitor the activities of the Funds and the Advisers in this regard to insure that these matters are being accomplished.

The Applicants believe that the granting of this application will provide the Funds access to the money market necessary to insure best price and execution in the case of United States Government, Government agency securities and bank money instruments, and will provide the Funds and the Advisers with an important new information sources in the money market and thereby will work to the benefit of the shareholders of the Funds.

The Applicants believe that the procedures to be followed with respect to transactions with GSI and MMI are structured in such a way as to insure that such transactions will be in all instances reasonable and fair and will not involve overreaching on the part of any person concerned, and further that such exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Finally, it is submitted that the experience of MLRAT under the 1976 Order demonstrates that there has been no overreaching on the part of any person involved in these transactions and that, based upon this experience, it would be appropriate to broaden the 1976 Order to include bank money instruments and to apply to transactions with MMI.

Notice is further given that any interested person may, not later than March 16, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-6268 Filed 2-24-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11629; 811-1900]

399 Fund; Application

February 18, 1981.

Notice is hereby given that 399 Fund ("Applicant"), One Citicorp Center 153 East 53rd Street, New York, New York 10043, and open-end, non-diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application pursuant to Section 8(f) of the Act on December 1, 1980, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it sold substantially all its assets to Stein Roe

Special Fund, Inc. ("Stein Roe"), pursuant to an agreement and plan of reorganization approved unanimously by Applicant's board of directors at a special meeting held on February 28, 1980, and approved by Applicant's shareholders at a special meeting held on July 1, 1980. The application states that Applicant transferred substantially all its assets to Stein Roe in exchange for shares of Stein Roe capital stock having an aggregate net asset value equal to the assets transferred and sold as of the close of business on July 8, 1980, subject to certain adjustments. In connection with the winding-up of its affairs, Applicant states it distributed a cash dividend of $70,365, of which $68,927 represented a divident for the fiscal year ended June 30, 1980, and $1,438 of which represented a dividend for the eight day period from July 1, 1980, to July 8, 1980.

Applicant states that it spent approximately $25,000, which it had retained, to satisfy all its outstanding debts and liabilities. Applicant represents that Citibank, N.A., a national banking association, paid all expenses incurred by Applicant, Stein Roe and Stein Roe's investment adviser in connection with the agreements and plan of reorganization and the transactions contemplated thereby. The application states that no securityholders of Applicant exist to whom distributions in complete liquidation of their interests have not been made. Applicant states that it will file appropriate documents to effect dissolution under the laws of the state of Delaware as soon as practicable after the requested order for deregistration has been granted.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 16, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-6269 Filed 2-24-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11632; 812-4786]

Tucker Anthony Mutual Fund; Application

February 18, 1981.

Notice is hereby given that Tucker Anthony Mutual Fund ("Applicant"), Three Center Plaza, Boston, Massachusetts 02108, an open-end, diversified, management investment company, filed an application on December 24, 1980, and an amendment thereto on February 9, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–45 and 22c–1 thereunder, to the extent necessary to permit Applicant to value the assets of its initial series, Tucker Anthony Cash Management Fund ("Fund"), using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is organized as a Massachusetts business trust and structured as a "series company" with one initial series of shares, those of the Fund. Applicant further represents that the Fund is to be a "money market" fund designed as an investment vehicle for institutional as well as individual investors with temporary cash balances or cash reserves. Applicant also states that the objective of the Fund is to seek to achieve as high a rate of current income as is consistent with preservation of capital and maintenance of liquidity by investing in a portfolio of a variety of money market instruments.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors.

Rule 22c–1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

According to the application, Applicant's board of trustees has determined in good faith that, absent unusual or extraordinary circumstances, the amortized cost method of valuing the portfolio securities of the Fund is appropriate and in Applicant's best interests and reflects the fair value of such securities. Applicant also avers that its board of trustees is of the view that it will be advantageous to shareholders of the Fund to have the conveniences and advantages of the

stable purchase and redemption price of $1.00 per share which the amortized cost method of valuing portfolio securities would provide. Applicant submits that its use of the amortized cost method of valuing the portfolio securities of the Fund, subject to certain conditions to which it agrees, will benefit those shareholders by enabling the Fund to maintain a $1.00 per share purchase and redemption price.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it believes the granting of the requested exemption by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Accordingly, Applicant requests that an order be granted to exempt Applicant from Section 2(a)(41) and Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit it to maintain a $1.00 per share purchase and redemption price for shares of the Fund by means of the amortized cost method of portfolio valuation. If the requested exemptions are granted by the Commission, Applicant agrees to adhere to the following conditions:

1. In supervising the Fund's operations and delegating special responsibilities involving management of the Fund's portfolio to Applicant's investment adviser, Applicant's trustees undertake—as a particular responsibility within the overall duty of care owed its shareholders—to establish proceduces reasonably designed, taking into account current market conditions and the Fund's investment objectives, to stabilize the Fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the trustees shall be the following:

(a) Review by Applicant's board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share of the Fund as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share of the Fund exceeds ½ of 1 percent, a requirement that the trustees will promptly consider what action, if any, should be initiated.

(c) Where Applicant's trustees believe the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the Fund's average maturity of portfolio instruments; withholding dividends; or utilizing a net assest value per share as determined by using available market quotations.

3. Applicant will cause the Fund to maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share for the Fund; provided, however, that the Fund will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the trustees' conditions and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the trustees's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the portfolio investments of the Fund, including repurchase agreements, to those United States dollar-denominated instruments which the trustees determine present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's trustees.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 16, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–6270 Filed 2–24–81: 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0195]

Gulfstream Capital Corp.; Issuance of License

On December 19, 1980, a Notice was published in the **Federal Register** (45 FR 83732) stating that an application had been filed by Gulfstream Capital Corporation, First National Bank Building, 801 Broad Street, Suite 616, Augusta, Georgia 30902, with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (SBIC's) under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business January 5, 1981, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the applicaitonand all other pertinent information, the SBA issued License No. 04/04-0195 to Gulfstream Capital Corporation, to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: February 18, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-6346 Filed 2-24-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0425]

Tiffany Small Business Investment Co.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980), by Tiffany Small Business Investment Company (Applicant), 122 East 42nd Street, New York, New York 10168, for a license to operate as a limited partnership small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The formation and licensing of a limited partnership SBIC is subject to the provisions of § 107.4 of the Regulations. The application provides for three individual general partners. There will be three limited partners.

The initial investors and their present ownership of the Applicant are as follows:

James S. Feldesman, 303 E. 52nd St., New York, New York 10022, General Partner 1%

Irving E. Hertz, 985 Fifth Ave., New York, New York 10021, General Partner 20%

Marvin A. Blumenfeld, 6 Belmont Dr., Monticello, New York 12701, General Partner 20%

Robert N. Lane, 180 E. 79th St., New York, New York 10021, Limited Partner 20%

Lucille E. Feldesman, 303 E. 52th St., New York, New York 10022, Limited Partner 19%

Janet B. Berke, 303 E. 57th St., New York, New York 10022, Limited Partner 20%

The Applicant proposes to commerce operations with a maximum partnership capital of $1,100,000. General Partners' capital amounts to $660,000, Limited Partners' capital, $440,000. The Applicant anticipates it will provide equity and loan financing. It will have a broad financing policy.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed general and limited partners, and the probability of successfull operation of the Applicant, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than March 12, 1981, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communication should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 17, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 6341 Filed 2-24-81; 8:45 a.m.]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 81-36]

Petroleum Products; Customs Approved Public Gauger; Marintch

Approval of public gauger performing gauging under standards and procedures required by Customs.

Notice is hereby given pursuant to the provisions of § 151.43 of the Customs Regulations (19 CFR 151.43) that the application of Marintch, 9001 Glacier, #178, Texas City, Texas 77590, to gauge imported petroleum and petroleum products in all Customs districts in accordance with the provisions of § 151.43 of the Customs Regulations is approved.

Dated: February 19, 1981.

Anthony Piazza,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 81-6351 Filed 2-24-81; 8:45 am]

BILLING CODE 4810-22-M

Office of the Secretary

[Department Circular, Public Debt Series No. 6-81]

Treasury Notes of May 15, 1986, Series D-1986

February 20, 1981.

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 $3,250,000,000 of the United States securities, designated Treasury Notes of May 15, 186, Series d-1986 (CUSIP No. 912827 LQ 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 interntional monetary authorities.

2. Description of Securities

2.1. The securities will be dated March 4, 1981, and will bear interest from that date, payable on a semiannual basis on November 15, 1981, and each subsequent 6 months on May 15 and November 15, until the principal becomes payable. They will mature May 15, 1986, and will not be subject to call for redemption prior to maturity. In the

event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

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 of 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 monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities regustered 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. 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, Thursday, February 26, 1981. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, February 25, 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 or 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 a 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 98.750. 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 their 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 securites specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers 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 Wednesday, March 4, 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 Monday, March 2, 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 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.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-6450 Filed 2-23-81; 3:44 pm]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Advisory Committee on Former Prisoners of War; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and Office of Management and Budget Circular A-63, revised, and in consultation with General Services Administration and OMB, the Veterans Administration has determined that establishment of the Advisory Committee on Former Prisoners of War is necessary and in the public interest.

The committee has been established to review adverse effects on health and adjustment of former prisoners of war. The committee will draw conclusions on existing information concerning the residual effects of internment, review new statistical and clinical information on former prisoners of war, and render expert advisory opinions to the Administrator and the Administrator's staff concerning Agency policies and procedures in relation to former prisoners of war. The committee will be composed of authorities in such fields as psychiatry, psychology, internal medicine, nutrition, epidemiology, and others who have studied the effects of stress, starvation and disease in the health of survivors of severe stressful situations. The committee will also include former prisoners of war.

Comments of interested persons concerning the establishment of this committee may be submitted to Dr. Jack R. Ewalt, Mental Health and Behavioral Sciences Service (116), Veterans Administration Central Office, 810 Vermont Avenue, N.W., Washington, D.C. 20420, phone (202) 389-3416.

Dated: February 12, 1981.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 81-6233 Filed 2-24-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 37
Wednesday, February 25, 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).

CONTENTS

1

[M-307 Amdt. 3; Feb. 19, 1981]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item.

TIME AND DATE: 9:30 a.m., February 19, 1981.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 16. Docket 37642, Application of United Air Lines for an exemption or declaratory order under section 403(b) to permit travel agents to assess customers service charges (Memo 299, BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 16 is being deleted from the February 19, 1981 agenda because this item was inadvertently released by the Bureau for inclusion on the calendar before the usual coordination with other bureaus, and that coordination has not yet been completed. Accordingly, the following Members have voted that Item 16 be deleted from the February 19, 1981 agenda and that no earlier announcement of this deletion was possible:

Chairman Marvin S. Cohen.
Member Elizabeth E. Bailey.
Member Gloria Schaffer.
Member George A. Dalley.
Member James R. Smith.

[S-300-81 Filed 2-23-81; 9:54 am]

BILLING CODE 6320-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Agency meeting.

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, March 2, 1981, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed merger of Michigan National Bank—Port Huron, Port Huron, Michigan, and Marine Bank & Trust, Marine City, Michigan.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,686-NR—First National Bank of Carrington, Carrington, North Dakota

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 NW., 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: February 23, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-302-81 Filed 2-23-81; 10:42 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Agency meeting.

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, March 2, 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), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

First Sterling Bank, and proposed new bank, to be located at 3660 Havendale Boulevard (State Road 544), Unicorporated Polk County (P.O. Winter Haven), Flordia.

Bayoulands Bank, a proposed new bank, to be located on Louisiana Highway Spur 70, Plattenville, Louisiana.

Rockland Savings Bank, Rockland, Massachusetts, an operating noninsured mutual savings bank.

Citizens Bank of Marinette, a proposed new bank, to be located on Pine Tree Road, Marinette, Wisconsin.

Valley View Bank, a proposed new bank, to be located at 3500 U.S. Highway 16, La Crosse, Wisconsin.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,678-L—Guaranty Bank & Trust Company, Chicago, Illinois

Case No. 44,679-L—The Mission State Bank & Trust Company, Mission, Kansas

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 pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (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)).

Reports of committees and officers:

Audit Report re: Investigation of Travel Irregularities—Boston Regional Office.
Report of the Director, Division of Liquidation:
Memorandum re: Reports Required Under Delegated Authority Sale of Real or Personal Property

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: February 23, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-303-81 Filed 2-23-81; 10:42 am]

BILLING CODE 6714-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION.

Notice of Meeting.

TIME AND DATE: 10 a.m., March 2, 1981.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket No. EL79–20, Buckeye Power, Inc.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, (202) 357–8400.

[S-301-81 2-23-81; 10:42 am]

BILLING CODE 6450-85-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 13632, February 23, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., February 25, 1981.

CHANGES IN THE MEETING: The meeting will begin at 1 p.m. instead of 10 a.m. The following item has been added.

Item No., Docket No., and Company

RP–4 AR61–2, AR67–1 and AR69–1, *et al.*, G–13258, G–18512, G–20509 and RP60–15, RP64–31, RP70–5 and RP70–16, RP70–38, *et al.*, and RP72–91, *et al.* Southern Natural Gas Company.

Kenneth F. Plumb,

Secretary.

[S-306-81 Filed 2-23-81; 3:28 pm]

BILLING CODE 6450-85-M

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, March 2, 1981.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Possible violation of the Bank Holding Company Act.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. 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: February 20, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-304-81 Filed 2-23-81; 2:46 pm]

BILLING CODE 6210-01-M

7

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

MEETING: Cultural Minorities Task force.

DATE AND TIME:

Friday, March 6, 1981, 9 a.m.–4:30 p.m.
Saturday, March 7, 1981, 9 a.m.–4:30 p.m.

PLACE: Mayflower Hotel (March 6—Senate Room) (March 7—Potomac Room).

STATUS: Open.

MATTERS TO BE DISCUSSED: Task Force plan of work.

February 17, 1981.

Toni Carbo Bearman,

Executive Director, National Commission of Libraries and Information Science.

[S-307-81 Filed 2-23-81; 3:58 pm]

BILLING CODE 7527-01-M

8

[Meeting No. 1262]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:15 a.m. (EST), Monday, March 2, 1981.

PLACE: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

Old Business Items

1. Final rate review.

New Business Items

C—Power Items
1. Addendum to interchange agreement with Georgia Power Company.
2. Lease-purchase agreement with SKW Trostberg AG and SKW Alloys, Inc., its subsidiary, covering the lease and eventual purchase of the 161–13.2-kV transformation facilities at TVA's Calvert 161-kV substation.
3. Supplement to contract with the Department of Energy for coal cleaning studies.
4. Letter agreement with the Department of Energy covering arrangements for a nuclear spent fuel rod consolidation demonstration program at Browns Ferry Nuclear Plant.

D—Personnel Items
*Change of status for Jack T. Thompson from Power Plant Superintendent, John Sevier Steam Plant to Branch Chief, Technical Services, Division of Fossil & Hydro Power, Office of Power, Chattanooga, Tennessee.
*2. Change of status for Allan T. Mullins from Assistant Director to Director, Division of Fuels, Office of Power, Chattanooga, Tennessee.
3. Change of status for Gary F. Harmon from Operations Manager, Nuclear Raw Materials, Division of Fuels, to Manager, Uranium Operations, Division of Fuels, Office of Power, Chattanooga, Tennessee.

E—Real Property Transactions
1. Filing of condemnation suits.
2. Land exchange affecting approximately 1.25 acres of Cherokee National Forest land located in Carter County, Tennessee, previously transferred by TVA to the United States Department of Agriculture.

F—Unclassified
1. Supplemental agreement between TVA and the Commonwealth of Virginia—providing for technical assistance to the Division of Mined Land Reclamation for the Straight Creek Water Reclamation Project above the town of St. Charles, Virginia.
2. Supplement to contract with the city of Triana, Alabama, covering arrangements for cooperation in a program for further development of the city through industrial and agricultural enterprises.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to request for information about this meeting. Call (615) 632–3247, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: February 23, 1981.

[S-305-81 Filed 2-23-81; 3:08 pm]

BILLING CODE 8120-01-M

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*Items approved by individual Board members. This would give formal ratification to the Board's action.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 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

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.

Deadlines for Comments On Proposed Rules for the Week of March 1 through March 7, 1981

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

87002 12–31–80 / Packers and stockyards; livestock market agencies and dealers; surety bond requirements, etc.; comments by 3–2–81

Animal and Plant Health Inspection Service—

85767 12–30–80 / Export Swine pseudo-rabies test requirements; comments by 3–2–81

8640 12–31–80 / Livestock and poultry disease control; communicable diseases, foot-and-mouth disease, pleuropneumonia, rinderpest, etc., indemnity claims not allowed; comments by 3–2–81

Food and Nutrition Service—

66448 10–7–80 / Pennsylvania Food Stamp Direct Demonstration Project; comments by 3–1–81

Food Safety and Quality Service—

10500 2–3–81 / Accredited Laboratory program; comments by 3–5–81

79819 12–2–80 / Prohibition of polychlorinated biphenyls (PCB's) and PCB-containing equipment or machinery and liquid PCB in Federally inspected meat establishments, poultry product establishments and egg product plants; comment period extended to 3–4–81

[*See also* 45 FR 44317, 10–28–80]

10498 2–3–81 / Proposed shelled peanuts standards; comments by 3–5–81

COMMODITY FUTURES TRADING COMMISSION

9958 1–30–81 / Contract market designation; economic and public interest reqirements; comments by 3–1–81

[Originally published at 45 FR 73504, 11–5–80]

79831 12–2–80 / Speculative position limits; comments by 3–2–81

EDUCATION DEPARTMENT

5410 1–19–81 / Centers for independent living; comments by 3–5–81

86308 12–30–80 / Continuing Education Outreach—State Administered Program provisions; comments by 3–2–81

86894 12–31–80 / Educational Opportunity Centers Program; comments by 3–2–81

86872 12–31–80 / International Education Programs, selection criteria specified; comments by 3–2–81

86331 12–30–80 / Legal Profession Training Program provisions; comments by 3–2–81

86928 12–31–80 / National Graduate Fellows Programs; comments by 3–2–81

4954 1–19–81 / Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from federal financial assistance; intent to develop regulations; comments by 3–5–81

86394 12–30–80 / Pell Grant Program provisions; comments by 3–2–81

[*See also* 46 FR 12495, 2–17–81]

86333 12–30–80 / Pell Grant Program provisions; comments by 3–2–81

86333 12–30–80 / Provisions for matching grants orders the High School Equivalency and College Assistance Migrant program; comments by 3–2–81

86340 12–30–80 / Provisions for financial assistance for construction, reconstruction and renovation of higher education facilities; comments by 3–2–81

86315 12–30–80 / Provisions of Continuing Education Outreach—Special Projects program; comments by 3–2–81

86317 12–30–80 / Proposed provisions for handicapped research programs; comments by 3–2–81

86311 12–30–80 / Provisions of Special Impact Aid Program for Refugees; comments by 3–2–81

86378 12–30–80 / Rehabilitation training provisions (final regulations); comments by 3–2–81

[*See also* 46 FR 12495, 2–17–81]

10461 2-3-81 / Indirect food additives, adjuvants, production aids, and sanitizers; antioxidants and/or stabilizers for polymers; objections by 3-5-81

9941 1-30-81 / Indirect food additives; safe use regulations for cyclic neopentanetetrayl bis (octadecyl phosphite); objections by 3-2-81

86362 12-30-80 / Infant formula quality control procedures; comments by 3-2-81

28 1-2-81 / Prescription drug products; patient package insert requirements; comments by 3-3-81

85785 12-30-80 / Shipping temperature requirements for certain biological products; comments by 3-2-81

Social Security Administration—

86507 12-31-80 / Financial assistance programs, subsidized housing, treatment in eligibility determinations; comments by 3-2-81

INTERIOR DEPARTMENT

National Park Service—

5668 1-19-81 / Alaska National Wildlife refuge; comments by 3-5-81

5642 1-19-81 / National Park System units in Alaska; comments by 3-5-81

INTERSTATE COMMERCE COMMISSION

8670 1-29-80 / Rail carriers; reasonably expected costs; surcharges on joint-line traffic; comments 3-2-81

LABOR DEPARTMENT

Federal Contract Compliance Programs Office—

86206 12-30-80 / Affirmative action obligations of contractors and subcontractors for disabled veterans and veterans of the Vietnam era and handicapped workers; comments by 3-2-81

Office of the Secretary—

11323 2-6-81 / Procurement; grants and contracts; cost principles and procedures; comments by 3-2-81

[Originally published at 45 FR 83998, 12-19-80]

NUCLEAR REGULATORY COMMISSION

3541 1-15-81 / Operational data gathering; comments by 3-2-81

POSTAL SERVICE

10513 2-3-81 / Floodplain management and protection of wetlands procedures; comments by 3-5-81

11301 2-6-81 / Indemnity claims for insured, COD, registered, and express mail; comments by 3-6-81

[Corrected at 46 FR 12991, 12-19-81]

11296 2-6-81 / International express mail rates; comments by 3-1-81

SECURITIES AND EXCHANGE COMMISSION

78 1-2-81 / Proposed revision of regulation S-K and guides for the preparation and filing of registration statements and reports; comments by 3-6-81

TRANSPORTATION DEPARTMENT

Coast Guard—

74523 11-10-80 / Damage stability standards for Great Lakes bulk dry cargo vessels; comment period extended to 3-1-81

[*See also* 45 FR 54095, 8-14-80]

Federal Aviation Administration—

79302 11-28-80 / Aircraft operating noise limits for aircraft operating under new Part 125; comments by 3-1-81

10164 2-2-81 / Proposed alteration of control zone; San Antonio, Tex. (Kelly, AFB); comments by 3-4-81

76 1-2-81 / Transport category airplanes—Pitot heat indication systems; comments by 3-5-81

National Highway Traffic Safety Administration—

10969 2-5-81 / Fields of direct view safety standards, extension of time for filing petitions for reconsideration; file by 3-3-81

[*See also* 46 FR 40, 1-2-81]

10969 2-5-81 / Hydraulic brake systems safety standards; extension of time for filing petitions for reconsideration; file by 3-3-81

[*See also* 46 FR 55, 1-2-81]

5022 1-19-81 / Passenger automobile average fuel economy standards; proposed decision to grant exemption; comments by 3-5-81

Urban Mass Transportation Administration—

5394 1-19-81 / Charter bus operations; comments by 3-5-81

TREASURY DEPARTMENT

Customs Service—

85780 12-30-80 / Provisions for assessment of liquidated damages under carrier's bonds; comments by 3-2-81

85781 12-30-80 / Provisions relating to quota merchandise, statistical information and merchandise released under the immediate delivery procedure; comments by 3-2-81

79730 12-1-80 / Special classes of merchandise; comments by 3-2-81

Internal Revenue Service—

112 1-2-81 / Basis and nonrecognition of gain or loss in triangular corporate reorganizations; comments by 3-3-81

85786 12-30-80 / Custodial accounts for regulated investment company stock; amendment of prior proposal; comments by 3-2-81

[*See also* 43 FR 5852, 2-10-78]

120 1-2-81 / Definitions and special rules relating to generation-skipping transfers; comments by 3-3-81

85787 12-30-80 / Income tax; charitable contribution of property elected under the Asset Depreciation Range System; comments by 3-2-81

85788 12-30-80 / Inspection of applications for tax exemption and similar material; comments by 3-2-81

116 1-2-81 / Miscellaneous DISC amendments; comments by 3-3-81

114 1-2-81 / Statutory merger using voting stock of the corporation controlling the merged corporation; comments by 3-3-81

129 1-2-81 / Various excise tax amendments relating to Motor Fuels and Buses under the Energy Tax and Revenue Acts of 1978, and the Technical Corrections Act of 1979; comments by 3-3-81

Comments On Proposed Rules for the Week of March 8 through March 14, 1981

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

13222 2-20-81 / Milk in the Eastern South Dakota marketing area; recommended decision and opportunity to file written exceptions; comments by 3-9-81

12709 2-18-81 / Milk in the St. Louis-Ozarks and certain other marketing areas; recommended decision to file written exceptions on proposed amendments to tentative marketing agreements and to orders; comments by 3-10-81

Rural Electrification Administration—

3027 1-13-81 / Telephone borrowers: service entrance and station protector installations and station installations (Bulletin 345-52); comments by 3-13-81

CIVIL AERONAUTICS BOARD

85064 12-24-80 / Accounts and reports for certified air carriers, uniform system; reduction in financial and statistical reporting requirements; reply comments by 3-10-81

COMMERCE DEPARTMENT

1761 1-7-81 / Proposed quotas for taking of dolphins incidental to commercial tuna purse seine fishing in the tropical Pacific Ocean; comments by 3-9-81

International Trade Administration—

1258 1-6-81 / Expansion of foreign policy control; interim rule; comments by 3-9-81

Maritime Administration—

10515 2-3-81 / Cargo preference-U.S. Flag vessels geographical allocation of preference cargoes; comments by 3-9-81

[Originally published at 46 FR 2370, 1-9-81]

CONSUMER PRODUCT SAFETY COMMISSION

3034 1-13-81 / Benzene-containing consumer products; proposed withdrawal of proposed ban; comments by 3-13-81

DEFENSE DEPARTMENT

Army Department—

11672 2-10-81 / Obtaining information from financial institutions; comments by 3-12-81

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

9005 1-27-81 / Residential Conservation Service program; Federal RCS plan; comments by 3-10-81

Federal Energy Regulatory Commission—

12760 2-18-81 / High-cost gas produced from tight formations; comments by 3-13-81

ENVIRONMENTAL PROTECTION AGENCY

11309 2-6-81 / Alaska State Implementation Plan; comments by 3-9-81

2544 1-9-81 / Canned and preserved seafood processing point source category; comments by 3-10-81

2344 1-9-81 / Hazardous waste management system; General and EPA administered permit programs; the hazardous waste permit program; comments by 3-10-81

11310 2-6-81 / Illinois State Implementation Plan; proposed disapproval of Administrative Order; comments by 3-9-81

11311 2-6-81 / Indiana State Implementation Plan; ambient air quality monitoring, data reporting and surveillance provisions; comments by 3-9-81

1858 1-7-81 / Iron and steel manufacturing point source category effluent limitations guidelines, pretreatment standards, and new source performance standards; comments by 3-9-81

11680 2-10-81 / Isophorone, Exemption from the requirement of a tolerance, amendment; comments by 3-12-81

11312 2-6-81 / Nebraska State Implementation Plan; comments by 3-9-81

11681 2-10-81 / Potassium hydroxide, Exemption from the requirement of a tolerance; comments by 3-12-81

3967 1-16-81 / Preliminary notice of determination concluding the rebuttable presumption against registration of pesticides containing ethylene dibromide; comments by 3-10-81

11678 2-10-81 / Proposed revision of the Maryland State Implementation Plan; comments by 3-12-81

2369 1-9-81 / Pulp, paper, and paperboard industry point source categories; effluent limitations guidelines, pretreatment standards, and new source performance standards; comments by 3-9-81

[Originally published at 46 FR 1430, Jan. 6, 1981]

11557 2-9-81 / Standards of performance for new stationary sources; surface coating of metal furniture; comments by 3-10-81

[Originally published at 45 FR 79390, 11-28-80]

11323 2-6-81 / Testing requirements for specification of disposal sites for dredged or fill material; comments by 3-9-81

8590 1-27-81 / Textile mills point source category, effluent limitations guidelines, pretreatment standards, and new source performance standards; comments by 3-13-81

[Corrected at 46 FR 11322, 2-6-81]

11320 2-6-81 / Washington State Implementation Plan; comments by 3-9-81

11321 2-6-81 / Wisconsin State Implementation Plan; ambient air quality monitoring, data reporting, and surveillance provisions; comments by 3-9-81

FEDERAL COMMUNICATIONS COMMISSION

82973 12-17-80 / AM broadcast stations, automation of use of measurement data; comments by 3-9-81

3573 1-15-81 / AM stereophonic broadcasting; reply comments extended to 3-9-81

[*See also* 45 FR 59350, 9-9-80 and 45 FR 81797, 12-12-80]

9143 1-28-81 / Emergency radio service; additional systems on secondary basis; reply comments by 3-10-81

11847 2-11-81 / Geographic reallocation of certain channels in the Detroit area to the business radio service; comments by 3-9-81

63305 9-24-80 / Providing for additional technologies which can improve efficiency of radio spectrum use; comments by 3-9-81

FEDERAL TRADE COMMISSION

11830 2-11-81 / Franchising and business opportunity ventures; disclosure requirements and prohibitions; comments by 3-11-81

[Corrected at 46 FR 13525, 2-23-81]

12005 2-12-81 / Franchising and business opportunity ventures, disclosure requirements and prohibitions; petition for exemption; comments by 3-12-81

[Corrected at 46 FR 13525, 2-23-81]

2361 1-9-81 / J. Walter Thompson Co.; consent agreement with analysis to aid public comment; comments by 3-9-81

2355 1-9-81 / Standard Brands, Inc. and Ted Bates & Co., Inc.; consent agreement with analysis to aid public comment; comments by 3-9-81

2359 1-9-81 / Teledyne, Inc. et al.; consent agreement with analysis to aid public comment; comments by 3-9-81

HEALTH AND HUMAN SERVICES DEPARTMENT

Child Support Enforcement Office—

1319 1-6-81 / Child Support Enforcement Program; withholding of advance funds for not reporting; comments by 3-9-81

1321 1-6-81 / Child Support Enforcement Program; requests for collection by Secretary of the Treasury; comments by 3-9-81

Food and Drug Administration

81154 12-9-80 / Classification of hypophosphatemia and hyperphosphatemia drug products for over-the-counter human use; comments by 3-9-81

73955 11-7-80 / Hair grower and hair loss prevention drug products for over-the-counter human use; reply comments by 3-9-81

[Corrected at 46 FR 3030, 1-13-81]

82014 12-12-80 / Vaginal contraceptive (OTC); monograph establishment; comments by 3-12-81

[Corrected at 46 FR 11292, 2-6-81]

Health Care Financing Administration—

1268 1-6-81 / Medicaid Program; plans of correction for intermediate care facilities for the mentally retarded; comments by 3-9-81

Public Health Service—

7176 1-22-81 / Mental health authorities; State, equitable arrangements for employee protection; comments by 3-9-81

Office of the Secretary—

7011 1-22-81 / Public assistance programs, State agency cost allocation plans, preparation, submission and approval (2 documents); comments by 3-9-81

INTERIOR DEPARTMENT

National Park Service—

1312 1–6–81 / Bighorn Canyon National Recreation Area; snowmobile regulations; comments by 3–9–81

INTERSTATE COMMERCE COMMISSION

8601 1–27–81 / Special docket proceedings—waiver of insignificant amounts and simplification of procedures; comments by 3–13–81

LABOR DEPARTMENT

Pension and Welfare Benefits Programs Office—

1304 1–6–81 / Summary annual report furnished participants and beneficiaries of employee benefit plans, amendments; comments by 3–9–81

NUCLEAR REGULATORY COMMISSION

85459 12–29–80 / Protection of unclassified safeguards information; comments by 3–9–81

81060 12–9–80 / Requirement for advance notification to Governors concerning shipments of irradiated reactor fuel; comments by 3–9–81

81058 12–9–80 / Requirement for advance notification to states of transportation of certain types of nuclear waste; comments by 3–9–81

PANAMA CANAL COMMISSION

9942 1–30–81 / Order of passage of vessels through the Panama Canal; interim rule; comments by 3–13–81

PERSONNEL MANAGEMENT OFFICE

1278 1–6–81 / Actions in the interest of the employee; comments by 3–9–81

STATE DEPARTMENT

Foreign Service Grievance Board—

11180 2–5–81 / Grievances and separation for causes cases; comments by 3–9–81

TRANSPORTATION DEPARTMENT

Coast Guard—

81616 12–11–80 / Lifesaving equipment; line throwing appliances required equipment on merchant vessels; comments by 3–11–81

[Corrected at 46 FR 3573, 1–15–81]

12524 2–17–81 / Marine engineering regulations for merchant vessels; acceptance of ASME U or UM Symbol Stamp for Pressure Vessels, Fittings and Accumulators; comments by 3–12–81

[Originally published at 45 FR 85488, 12–29–80]

Federal Aviation Administration—

80972 12–8–80 / Increase in approved takeoff weights and passenger seating capacities; comments by 3–9–81

Research and Special Programs Administration—

80843 12–8–80 / Limited quantities of radioactive materials; comments by 3–13–81

[Corrected at 45 FR 82681, 12–16–80 and 45 FR 84108, 12–22–80]

National Highway Traffic Safety Administration—

10969 2–5–81 / Confidential business information; extension of time for filing petitions for reconsideration; file by 3–9–81

[*See also* 46 FR 2049, 1–8–81]

10179 2–2–81 / Federal Motor Vehicle Safety Standards; seat belt assembly anchorages; extension of comment period; comments by 3–11–81

[Originally published at 45 FR 81625, 12–11–80]

10969 2–5–81 / Occupant crash protection safety standard; extension of time for filing petitions for reconsideration, file by 3–9–81

[*See also* 46 FR 2064, 1–8–81]

TREASURY DEPARTMENT

Internal Revenue Service—

1753 1–7–81 / Addition of items to category of specially defined energy property; comments by 3–9–81

1744 1–7–81 / Limitations on reorganization treatment for investment companies; comments by 3–9–81

1754 1–7–81 / Net income limitation on windfall profit; comments by 3–9–81

Next Week's Meetings:

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

12037 2–12–81 / Regulation of Business Committee, confidential business information, Washington, D.C. (open), 3–3–81

AGRICULTURE DEPARTMENT

Forest Service—

10789 2–4–81 / Committee of State Foresters; Albuquerque, N.M. (open), 3–5–81

8626 1–27–81 / Fremont National Forest Grazing Advisory Board, Lakeview, Oreg. (open), 3–6–81

12038 2–12–81 / Modoc National Forest Grazing Advisory Board, Alturas, Calif. (open), 3–6–81

ARTS AND HUMANITIES, NATIONAL FOUNDATION

11638 2–9–81 / Humanities Panel, Washington, D.C. (closed), 3–2 and 3–6–81

9269 1–28–81 / Humanities Panel, Washington, D.C. (closed), 3–4 and 3–5–81

11926 2–11–81 / Media Arts Panel (AFI/Archival Section), Washington, D.C. (closed), 3–3–81

11926 2–11–81 / Special Projects Panel (Folk Arts Section), Washington, D.C. (partially open), 3–5 through 3–7–81

12371 2–13–81 / Visual Arts Panel (Drawing/Printmaking/Artists Books), Washington, D.C. (closed), 3–5 and 3–6–81

12371 2–13–81 / Visual Arts Panel (Residencies), Washington, D.C. (closed), 3–7–81

CIVIL RIGHTS COMMISSION

12995 2–19–81 / Connecticut Advisory Committee, Cromwell, Conn. (open), 3–5–81

12040 2–12–81 / Illinois Advisory Committee, Chicago, Ill. (open), 3–2–81

12041 2–2–81 / Vermont Advisory Committee, Montpelier, Vt. (open), 3–4–81

COMMERCE DEPARTMENT

Census Bureau—

11855 2–11–81 / American Statistical Association, Census Advisory Committee, Suitland, Md. (open), 3–5 and 3–6–81

National Oceanic and Atmospheric Administration—

12529 2–17–81 / Coastal Zone Management Advisory Committee, Washington, D.C. (open), 3–5 and 3–6–81

5033 1–19–81 / Gulf of Mexico Fishery Management Council, San Antonio, Tex. (open), 3–3 and 3–4–81

10521 2–3–81 / Mid-Atlantic Fishery Management Council, Philadelphia, Pa. (open), 3–4 through 3–6–81

DEFENSE DEPARTMENT

Office of the Secretary—

7428 1–23–81 / Wage Committee, Washington, D.C. (closed), 3–3–81

11697 2–10–81 / Electron Devices Advisory Group, Arlington, Va. (closed), 3–5–81

[Rescheduled at 46 FR 12533, 2–17–81]

EDUCATION DEPARTMENT

13060 2–19–81 / Bilingual Education, National Advisory Council, Washington, D.C. (open), 3–7, 3–8, and 3–9–81

12229 2–13–81 / Black Higher Education and Black Colleges and Universities, National Advisory Committee, Washington, D.C. (open), 3–2 and 3–3–81

12230 2–13–81 / Indian Education National Advisory Council, Tempe, Ariz. (open), 3–6–81

11334 2–6–81 / Indian Education National Advisory Council, Search Committee (closed), Tempe, Ariz., 3–7–81

ENERGY DEPARTMENT

11704 2–10–81 / Oak Ridge Gaseous Diffusion Plant (ORGDP), intent to prepare an environmental impact statement on an Incineration Facility, Columbus, Ohio (open), 3–3–81

Energy Research Office—

12541 2–17–81 / Conservation Panel, Energy Research Advisory Board, Washington, D.C. (open), 3–6–81

Environment Office—

12266 2–13–81 / Environmental Advisory Committee, Demand Subcommittee and Subcommittee on Nuclear Energy, Washington, D.C. (open), 3–5 and 3–6–81

ENVIRONMENTAL PROTECTION AGENCY

10853 2–4–81 / Management Advisory Group to the Municipal Construction Division, Washington, D.C. (open), 3–3, through 3–5–81

11883 2–11–81 / State FIFRA Issues Research and Evaluation Group, Washington, D.C. (open), 3–5–81

FEDERAL COMMUNICATIONS COMMISSION

10853 2–4–81 / Advisory Committee on Radio Broadcasting, Technical and Allocations Subgroups, Washington, D.C. (open), 3–4–81

HEALTH AND HUMAN SERVICES DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

11708 2–10–81 / Cognition, Emotion, and Personality Research Review Committee, Washington, D.C. (partially open), 3–6 through 3–8–81

11708 2–10–81 / Mental Health National Advisory Council, Rockville, Md. (partially open), 3–2 through 3–4–81

11708 2–10–81 / Psychiatry Education Review Committee, Rockville, Md. (partially open), 3–2 through 3–6–81

Centers for Disease Control—

10014 1–30–81 / National Institute for Occupational Safety and Health, Safety and Occupational Health Study Section, Wheaton, Md. (partially open), 3–2 through 3–5–81

Food and Drug Administration—

10015 1–30–81 / Antihemophilic Factor Workshop, Bethesda, Md. (open), 3–2–81

11712 2–10–81 / Cardiovascular and Renal Drugs Advisory Committee, Bethesda, Md. (open), 3–5 and 3–6–81

11710 2–10–81 / Circulatory System Devices Panel, Washington, D.C. (partially open), 3–2–81

11712 2–10–81 / Metabolic Drugs Advisory Committee, Endocrinologic Subcommittee, Rockville, Md. (open), 3–5–81

National Institutes of Health—

11717 2–10–81 / Large Bowel and Pancreatic Cancer Review Committee, Large Bowel Subcommittee, Houston, Tex. (partially open), 3–2 and 3–3–81

11717 2–10–81 / Microbiology and Infectious Diseases Advisory Committee, Dallas, Tex. (partially open), 3–6 and 3–7–81

6073 1–21–81 / Minority Access to Research Careers Review Committee, Bethesda, Md. (partially open), 3–5 and 3–6–81

10208 2–2–81 / National Institute of Neurological and Communicative Disorders and Stroke; Consensus Development Conference on Reye's Syndrome, Bethesda, Md. (open), 3–2 through 3–4–81

6074 1–21–81 / Various study sections, Bethesda, Md. (partially open), 3–1 through 3–7–81

[*See also* 46 FR 13816, 2–24–81]

Public Health Service—

10209 2–2–81 / National Toxicology Program, San Diego (open), 3–1–81

INTERIOR DEPARTMENT

Fish and Wildlife Service—

75005 11–13–80 / International Trade in Endangered Species of Wild Fauna and Flora, Conference of the parties to the Convention, New Delhi, India (open), 2–25 through 3–8–81

Land Management Bureau—

9790 1–29–81 / Idaho Falls District Advisory Council, Idaho Falls, Idaho (open), 3–6 and 3–7–81

11367 2–6–81 / Pacific Power & Light Co.; Proposed 500Kv Electrical Transmission Line from Eugene to Medford, Oreg.; Intent to Prepare an Environmental Impact Statement, Eugene, Rosenburg and Medford, Oreg., 3–2, 3–3 and 3–4–81, respectively

9789 1–29–81 / Spokane District Advisory Council, Spokane, Wash. (open), 3–5–81

9791 1–29–81 / Uinta-Southwestern Utah Regional Coal Team, Salt Lake City, Utah, 3–4–81

11366 2–6–81 / White River Management Framework Plan, Denver, Grand Junction and Meeker, Colo. (open), 3–3, 3–4 and 3–5–81 respectively

National Park Service—

12550 2–17–81 / Appalachian National Scenic Trail Advisory Council, Harpers Ferry, W. Va. (open), 3–6 and 3–7–81

12551 2–17–81 / Golden Gate National Recreation Area Advisory Commission, San Francisco, Calif., 3–7–81 and Point Reyes Station, Calif. (open), 3–21–81

11603 2–9–81 / Rio Grande Wild and Scenic River, Brewster and Terrell Counties, Texas; Environmental assessment/ general management plan and draft land acquisition plan; Alpine and Sanderson, Texas., 3–2; San Antonio, Texas, 3–3; Austin, Texas, 3–4; Houston, Texas, 3–5; and Dallas, Texas (all open), 3–6–81

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development—

9261 1–28–81 / Research Advisory Committee, Washington, D.C. (open), 3–3 and 3–4–81

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

12168 2–12–81 / NASA Advisory Council Aeronautics Advisory Committee, Ad Hoc Subcommittee on the Proposed NASA/British Aerospace Cooperative Research Program, Washington, D.C. (open), 3–3–81

12912 2–18–81 / NASA Advisory Council, Informed Ad Hoc Advisory Subcommittee on Computer Technology and Information System, Washington, D.C. (open), 3–5–81

12168 2–12–81 / NASA Advisory Council, Space Science Advisory Committee, Washington, D.C. (open), 3–2 thru 3–5–81

NATIONAL SCIENCE FOUNDATION

12565 2–17–81 / Social and Economic Science Advisory Committee, Political Science Subcommittee, Washington, D.C. (closed), 3–5 and 3–6–81

STATE DEPARTMENT

12585 2–17–81 / International Radio Consultative Committee, Study Group 1 of the U.S. Organization, Washington, D.C. (open), 3–4–81

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

12179 2–12–81 / Radio Technical Commission of Aeronautics, Special Committee 139—Airborne Equipment Standards for Microwave Landing System, Washington, D.C. (open), 3–4 through 3–6–81

Federal Highway Administration—

5118 1–19–81 / Outdoor Advertising and Motorist Information National Advisory Committee, Washington, D.C. (open), 3–5 and 3–6–81

National Highway Traffic Safety Administration—

7123 1–22–81 / Safety Standards International Harmonization; Program of Work on the WP29 Fifteenth Session, Ad Hoc Meeting; Geneva, Switzerland, 3–5 and 3–6–81

VETERANS ADMINISTRATION

12387 2–13–81 / Scientific Review and Evaluation Board for Rehabilitative Engineering Research and Development, Washington, D.C. (partially open), 3–4 and 3–5–81

Next Week's Public Hearings

ENERGY DEPARTMENT

Bonneville Power Administration—

12659 2–17–81 / Proposed transmission and rate adjustment, Salem, Oregon, 3–5–81

12668 2–17–81 / Proposed Wholesale Power Rate Adjustment, Portland, Oregon, 3–2–81

12668 2–17–81 / Proposed Wholesale Power Rate Adjustment, Richland, Wash., 3–11 and Seattle, Wash., 3–12, and San Francisco, Cal., 3–13–81

12668 2–17–81 / Proposed Wholesale Power Rate Adjustment, Salem, Oregon, 3–5–81

Conservation and Solar Energy Office—

8016 1–26–81 / Residential energy efficiency program, Washington, D.C., 3–6–81

ENVIRONMENTAL PROTECTION AGENCY

9974 1–30–81 / Iron and steel manufacturing point source category; effluent guidelines and standards, Washington, D.C., 3–6–81

9974 1–30–81 / Pulp, paper and paperboard; builders' paper and board mills, Washington, D.C., 3–6–81

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 February 19, 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

12498 2–17–81 / CSA—Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from financial assistance provided by CSA

[Originally published at 46 FR 5620, 1–19–81]

12499 2–17–81 / CSA—Rules superseded by the Grantee Program Management System; effective 2–17–81

12495 2–17–81 / ED/Sec'y—Assistance to States for Education of Handicapped Children; effective 3–30–81

[Originally published at 46 FR 3865, 1–16–81]

12495 2–17–81 / ED/Sec'y—Assistance to States for Education of Handicapped Children; effective 3–30–81

[Originally published at 46 FR 5460, 1–19–81]

12495 2–17–81 / ED/Sec'y—Arts in Education Program; effective 3–30–81

[Originally published at 46 FR 4606, 1–16–81]

12495 2–17–81 / ED/Sec'y—Centers for Independent Living; effective 3–30–81

[Originally published at 46 FR 5410, 1–19–81]

12495 2–17–81 / ED/Sec'y—Education Department General Administrative Regulations (EDGAR); Annual Funding Priorities; effective 3–30–81

[Originally published at 46 FR 3205, 1–14–81]

12495 2–17–81 / ED/Sec'y—Graduate and Professional Study Fellowships; effective 3–30–81

[Originally published at 46 FR 3400, 1–14–81]

12495 2–17–81 / ED/Sec'y—Instructional Media for the Handicapped; effective 3–30–81

[Originally published at 46 FR 3206, 1–14–81]

12495 2–17–81 / ED/Sec'y—International Education Programs; effective 3–30–81

[Originally published at 45 FR 86872, 12–31–80]

12495 2–17–81 / ED/Sec'y—Law-Related Education Program; effective 3–30–81

[Originally published at 46 FR 3877, 1–16–81]

12495 2–17–81 / ED/Sec'y—Minority Institutions Science Improvement Program (MISIP); effective 3–30–81

[Originally published at 46 FR 3873, 1–16–81]

12495 2–17–81 / ED/Sec'y—National Direct Student Loan Program, College Work-Study Program, and Supplementary Educational Opportunity Grant Program; effective 3–30–81

[Originally published at 46 FR 5238, 1–19–81]

12495 2–17–81 / ED/Sec'y—National Direct Student Loan Program, College Work-Study Program, Supplemental Educational Opportunity Grant Program, Guaranteed Student Loan Program, Parent Loans for Undergraduate Students Program, and Pell Grant Program; effective 3–30–81

[Originally published at 46 FR 6322, 1–21–81]

12495 2–17–81 / ED/Sec'y—Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from Federal Financial Assistance; and Assistance to States for Education of Handicapped Children; effective 3–30–81

[Originally published at 45 FR 86390, 12–30–80]

12495 2–17–81 / ED/Sec'y—Pell Grant Program; effective 3–30–81

[Originally published at 45 FR 86394, 12–30–80]

12495 2–17–81 / ED/Sec'y—Pell Grant Program, Family Contribution Schedules; effective 3–30–81

[Originally published at 46 FR 5320, 1–19–81]

12495 2–17–81 / ED/Sec'y—Rehabilitation training; effective 3–30–81

[Originally published at 45 FR 86378, 12–30–80]

12495 2–17–81 / ED/Sec'y—Selection criteria for FY 1981; effective 3–30–81

[Originally published at 46 FR 5372, 1–19–81]

12495 2–17–81 / ED/Sec'y—State Vocational Rehabilitation and Independent Living Rehabilitation Programs; effective 3–30–81

[Originally published at 46 FR 5522, 1–19–81]

12495 2–17–81 / ED/Sec'y—Student Assistance General Provisions; effective 3–30–81

[Originally published at 45 FR 86854, 12–31–80]

12495 2–17–81 / ED/Sec'y—Vocational Rehabilitation Service Projects; effective 3–30–81

[Originally published at 46 FR 5416, 1–19–81]

DEADLINES FOR COMMENTS ON PROPOSED RULES

12522 2–17–81 / CSA—Grantee public affairs; public access to grantee information; comments by 4–20–81

13237 2–20–81 / Navajo and Hopi Indian Relocation Commission—Discretionary funds; procedures for submission, review, approval, and administration of applications for financial assistance; comments by 3–23–81

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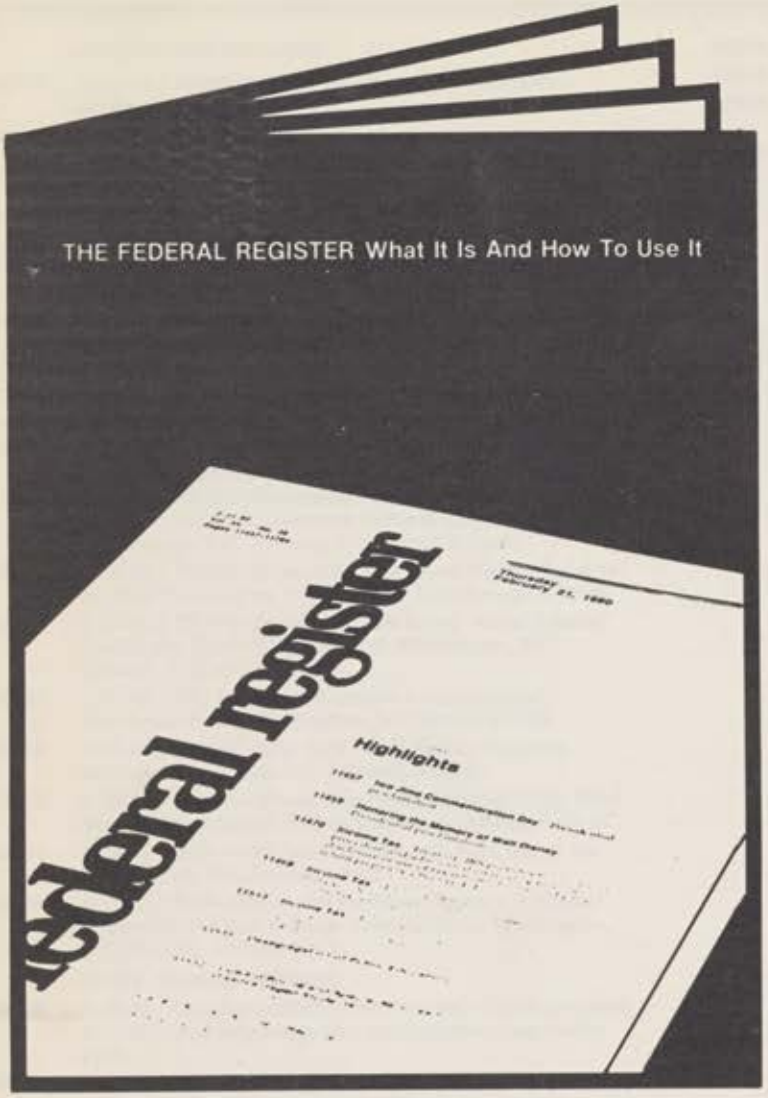

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